



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
[EAC 06 208 51708]

OFFICE: Vermont Service Center

DATE: JAN 02 2008

IN RE: Applicant [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Liberia who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed a Form I-821, Application for Temporary Protected Status, on June 23, 2005, under receipt number EAC 06 208 51708. The VCS Director denied the application on November 30, 2006, after determining the applicant had failed to establish he was eligible for late initial registration. The director also found that the applicant had not established that he had continuously resided in the United States since October 1, 2002, or had been continuously physically present in the United States since August 25, 2004.

On appeal counsel states that the applicant had initially been granted Liberian TPS. Counsel acknowledges that the applicant did not follow up and continuously renew his Liberian TPS status but indicates that he did not do so because of illness, not because he was being held or was in another nonimmigrant or other immigration status. Counsel submits documentation to establish the applicant's continuous residence and continuous physical presence during the required period.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;

(ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Liberia was designated for TPS on August 25, 2004. The initial registration period pursuant to the current re-designation was August 25, 2004 – February 21, 2005. The record shows that the applicant filed his application with Citizenship and Immigration Services (CIS) on June 23, 2006.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. The record reflects that the applicant filed a Form I-589, Request for Asylum and for Withholding of Deportation, with CIS on October 17, 1990. As that application is still pending, the applicant qualifies for late initial registration under the regulations at 8 C.F.R. § 244.2(f)(2)(ii).

The phrase *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

On April 15, 2004, the applicant was requested to submit evidence establishing his continuous residence since October 1, 2002 and continuous physical presence since August 25, 2004, in the United States. The applicant did not respond to the director's request. On appeal, the applicant forwarded:

1. A notice of the applicant's decision from the State of New York Workers' Compensation Board in Binghamton, New York, awarding him compensation from May 29, 2002 through February 12, 2003.

2. A certificate of group health plan coverage from the New York State Department of Health for the applicant for the period from November 1, 2003 to October 24, 2004.
3. The applicant compensation statement from "The State Insurance Fund" for the periods from September 13, 2005 to September 27, 2005, and a compensation statement for a long term award for the period from May 9, 1996 to October 10, 2006, along with a copy of a check and bank deposit slip for that award.
4. An affidavit dated December 22, 2006, from [REDACTED] Administrative Assistant, of an organization named [REDACTED] in Brooklyn, New York. [REDACTED] states that the applicant has been a member of that organization since October 2002.

After review of the record and the documentation submitted on appeal, it is determined the applicant has submitted sufficient evidence to establish that he has met the continuous residence and continuous physical presence requirements described in the regulations at 8 C.F.R. §§ 244.2(b) and (c). However, the applicant has failed to establish or even assert that he is eligible for late registration under any of the provisions detailed in 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision to deny the application for this reason is affirmed.

Moreover, on September 20, 2006, CIS announced the termination of TPS for Liberia, effective October 1, 2007. Since TPS for Liberians has been terminated, even if the applicant could establish that he was eligible for late registration it would have no practical effect on his status.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.