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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



M<sub>1</sub>

DATE: **OCT 03 2011**

Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT:

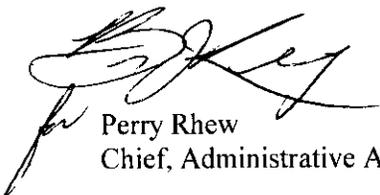


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew  
Chief, Administrative Appeals Office

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

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

The director denied the application because the applicant failed to establish he was eligible for late registration.

On appeal, counsel argues that the law does not require the applicant's father to be a TPS registrant; only that he be eligible to be a TPS registrant.

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 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 Secretary 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 TPS 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 parole; or

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

Persons applying for TPS offered to Somalians must demonstrate that they have continuously resided in the United States since September 4, 2001. On August 9, 2001, the Attorney General announced an extension of the TPS designation until September 17, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 17, 2012, upon the applicant's re-registration during the requisite period.

The record reflects that a Form I-730, Refugee/Asylee relative Petition, was filed on behalf of the applicant, and he was assigned alien registration number [REDACTED]. On December 27, 2001, the Form I-730 was denied.

The applicant filed his initial TPS application on April 18, 2010, and was assigned alien registration number [REDACTED]. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The director denied the application because there was no evidence that the applicant's parent had applied for or was granted TPS status. USCIS records reflect that the applicant's father had filed a Form I-589, Application for Asylum and for Withholding of Removal, on December 23, 1997, which was subsequently granted. The father filed a Form I-485, Application to Register Permanent Resident or Adjust Status, on May 30, 2003, and he became a legal permanent resident on November 28, 2005. The father became a U.S. citizen on July 6, 2011.

Contrary to counsel's assertion, the applicant's father has not established *prima facie* eligibility under section 244 of the Act.<sup>2</sup> An individual simply cannot be "eligible for" TPS without ever filing for the benefit. Being a national of a foreign state designated under section 244(b) of the Act, does not automatically make one eligible for TPS. Consequently, the director's decision to deny the application for TPS will be affirmed.

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<sup>1</sup> The Form I-821 and its supporting documents have been consolidated into [REDACTED]

<sup>2</sup> Pursuant to 8 C.F.R. § 244.1, *prima facie* means eligibility established with the filing of a completed application for TPS containing factual information that if unrebutted will establish a claim of eligibility under section 244 of the Act.

[REDACTED]

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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.