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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**

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DATE: **SEP 27 2011** Office: CALIFORNIA 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: Self-represented

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 California 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 California 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,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 Haiti 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 was deemed inadmissible under section 212(a)(6)(C)(i) of the Act, and was provided the opportunity to file a Form I-601, Application for Waiver of Grounds of Inadmissibility. The applicant, submitted the Form I-601 without a fee or a fee waiver request. The director denied the TPS application as the Form I-601 was improperly filed and thereby the applicant remained inadmissible to the United States.

On appeal, the applicant puts forth the same rebuttal that was submitted in response to the Request for Additional Evidence, and considered by the director in her decision.

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 as designated by the Attorney General, now the Secretary, Department of Homeland Security (Secretary), 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.

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible. Section 212(a)(6)(C)(i) of the Act.

Except as provided in clause (iii), the Secretary may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Section 244(c)(2)(A)(ii) of the Act.

If an alien is admissible on grounds which may be waived, he or she shall be advised of the procedures for applying for a waiver of grounds of inadmissibility on Form I-601. 8 C.F.R. § 244.3(b).

The record reflects that on May 28, 2005, the applicant applied for admission into the United States by presenting a fraudulent Haitian passport. The applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act. As noted above, such ground of inadmissibility may be waived.

On December 13, 2010, the applicant was given the opportunity to file a Form I-601 with the appropriate fee or fee waiver request. The applicant, in response, submitted the Form I-601; however, neither a fee nor a fee waiver request was provided. Accordingly, on April 7, 2011, the director denied the TPS application.

The instructions to the Form I-601 are very clear in indicating that the application must be accompanied by a fee or that a fee waiver may be requested. The applicant, however, has failed to provide the appropriate fee or a fee waiver request. Therefore the applicant remains inadmissible to the United States. Consequently, the director's decision to deny the application for TPS will be affirmed.

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.