



U.S. Citizenship  
and Immigration  
Services



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DATE: Office: NEBRASKA SERVICE CENTER FILE:   
**DEC 04 2012**

IN RE: Applicant: 

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

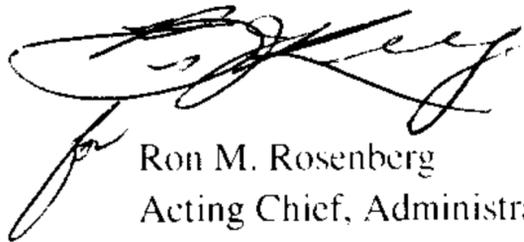
ON BEHALF OF APPLICANT:  


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 Nebraska 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.

  
Ron M. Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 director denied the application because (1) the applicant failed to file for TPS application within the initial registration period, and (2) the applicant failed to establish that he is eligible for late registration.

On appeal, counsel for the applicant asserts that the applicant's TPS application was timely filed and that the application was improperly rejected. Counsel contends that since the application was improperly rejected, the applicant's second application should be accepted "under the good-cause exception procedures" at 8 C.F.R. § 244.17(c).

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; 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 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.

On January 21, 2010, the Secretary designated Haiti as a country eligible for TPS. This designation allowed nationals of Haiti who have continuously resided in the United States since January 12, 2010, and who have been continuously physically present in the United States since January 21, 2010, to apply for TPS. The initial registration period for nationals of Haiti was from January 21 through July 20, 2010. The applicant did not file his TPS application until December 1, 2011.

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 United States 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).

On February 21, 2012, the director sent a Request for Evidence (RFE) to the applicant noting that since the applicant failed to submit his TPS application during the initial registration period for Haiti, the director will consider the application for late initial filing allowed during the extension and the re-designation period for Haiti. The director then requested the applicant to submit evidence to establish that the applicant is eligible for late registration as set forth in 8 C.F.R. § 244.2(f)(2).

In response, counsel for the applicant claims that the initial application submitted by the applicant was timely and that the application was wrongfully rejected. Counsel submitted a Form I-797C showing that the applicant's TPS application under [REDACTED] was received on May 24, 2010.

and was rejected as incomplete. The record shows that the applicant's complete application under receipt # [REDACTED] was received at the service center on December 1, 2011.<sup>1</sup>

On May 19, 2011, the Secretary announced an extension of the TPS initial designation for Haiti until January 22, 2013. On May 19, 2011, the Secretary re-designated Haiti as a country for TPS eligibility which became effective on July 23, 2011, and remains in effect until January 22, 2013, upon the applicant's re-registration during the requisite time period. This re-designation allowed nationals of Haiti who have continuously resided in the United States since January 12, 2011, and who have been continuously physically present in the United States since July 23, 2011, to apply for TPS. The initial registration period for this new re-designation began on May 19, 2011, and ended on November 15, 2011.

The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. To qualify for late registration, the 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. In this case, the applicant has failed to provide evidence demonstrating that he meets the above requirements.

The applicant indicated that he entered the United States in 1981 and that he has continuously resided in the country since then. Thus, based on the applicant's statements and evidence in the record, he meets the continuous residence and the continuous physical presence requirements. However, the applicant has provided no evidence to establish that he falls under any of the provisions enumerated in 8 C.F.R. § 244.2(f)(2) above. Consequently, the applicant has failed to demonstrate that he meets the requirements for late initial registration as his TPS application was received on December 1, 2011, after the initial registration period under the re-designation closed on November 15, 2011.

Although the applicant has established his qualifying residence and physical presence in the United States, he has failed to establish his eligibility for late filing under the initial designation or the re-designation of TPS for Haiti. Consequently, the director's decision to deny TPS on this ground 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.

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<sup>1</sup> An application or petition which is not properly filed shall be rejected and rejected applications and petitions will not retain a filing date. 8 C.F.R. § 103.2(a)(7)(i). Thus, in this case, the applicant's TPS application was filed on December 1, 2011.