

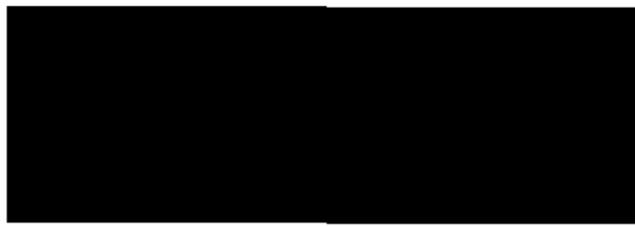
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

M₁



DATE: Office: CALIFORNIA SERVICE CENTER FILE: 
JUL 31 2012

IN RE: Applicant: 

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

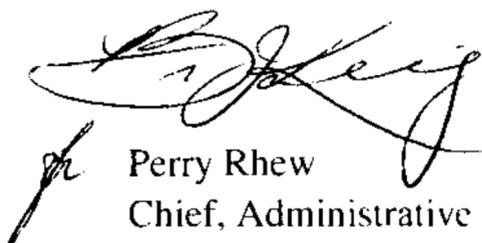
ON BEHALF OF APPLICANT: SELF-REPRESENTED

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 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,



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 director denied the application because (1) the applicant failed to establish that she is eligible for late registration, and (2) the applicant failed to file her TPS application within the subsequent re-designated period.

On appeal, the applicant asserts that she was not aware of the filing deadline. The applicant states that she did not have money to pay the filing fee and had to rely on relatives, and that she was not aware that she could have requested a waiver of the filing fee.

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. On May 19, 2011, the Secretary announced an extension of the TPS initial designation for Haiti until January 22, 2013.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she 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 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 March 1, 2012, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, provided evidence establishing her qualifying residence and physical presence in the United States.

The director determined that the applicant had failed to submit sufficient evidence to establish that she is eligible for late registration and denied the application on March 27, 2012.

On appeal, the applicant submitted a photocopy of her Haitian passport and a Form I-94, Record of Arrival, showing that she was admitted as a non-immigrant from January 22, 2010, through July 21, 2010.

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. In this case, the applicant has submitted evidence to establish that she was in valid non-immigrant status during the initial registration period and that she is eligible for late registration.

The record reflects that the applicant last entered the United States on January 22, 2010 as a B-2 visitor with authorization to remain in the country until July 21, 2010. It appears from the record that the applicant has remained in the United States since January 22, 2010. The record also reflects that the applicant attempted to file her initial TPS application on October 26, 2011, but the application was returned to the applicant as incomplete. The record further reflects that the applicant submitted a complete TPS application December 12, 2011.

While the applicant's non-immigrant status technically rendered her eligible for late registration, USCIS regulations require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, since the applicant's valid non-immigrant status expired on July 21, 2010, her 60-day period for late registration actually expired on September 20, 2010. The applicant filed her application with the director on December 12, 2011, more than one year after the expiration of her non-immigrant status.

The applicant did not file her application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g). The applicant has failed to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

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.

As indicated above, the applicant attempted to file her initial application under the new re-designation provision on October 26, 2011. The application was rejected and returned to the applicant as incomplete with instructions to cure the deficiencies and resubmit her application. Rejected applications cannot retain a filing date. *See* 8 C.F.R. § 103.2(a)(7)(i). The record reflects that the applicant's complete application was received by the service center on December 12, 2011, two months after the initial registration period under the re-designation closed on November 15, 2011.

Although the applicant has established her qualifying residence and physical presence in the United States, she has failed to establish her 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.