



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **JAN 30 2013** Office: CALIFORNIA SERVICE CENTER

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 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 Rosenberg  
Acting 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 is a native and 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 the applicant had failed to establish her eligibility for late initial registration for TPS.

On appeal, the applicant states that she submitted her TPS application late because she was in the process of getting legal status through her husband, and asserts that she is eligible for TPS as she has resided in the United States since October 24, 2007. The applicant does not submit additional evidence.

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;

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(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. On May 19, 2011, the Secretary also re-designated Haiti 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 the re-designation began on May 19, 2011, and ended on November 15, 2011.

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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

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 record reflects that the applicant filed her TPS application on February 16, 2012, and indicated that she was filing an initial TPS application.

On April 20, 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 was also requested to submit evidence establishing her continuous physical presence in the United States from January 12, 2011, and her physical presence in the United States from July 23, 2011 to the date of filing. The

applicant, in response, only provided evidence to establish her qualifying residence and physical presence in the United States.

Upon review of the record of proceedings, it was noted by the director that the applicant was admitted to the United States on October 14, 2007 as a Conditional Permanent Resident and assigned a CR1 (spouse of a United States citizen) classification. The applicant, however, had failed to submit the Form I-751, Petition to Remove Conditions on Residence, within the 90-day period immediately preceding the second anniversary of the date she obtained conditional permanent residence.<sup>1</sup> Accordingly, the applicant's Form I-751 was denied and her permanent residence status was terminated on August 23, 2010. The director further noted that the applicant submitted a Form I-94, Arrival/Departure Record, serving as a temporary Form I-551, Permanent Resident Card, dated April 19, 2011, and valid until July 18, 2011, which the director determined had been issued in error as it had been issued after the applicant's permanent residence status had been terminated, and that even if the Form I-94 was deemed valid, it had expired 120 days prior to the end of the registration period of November 15, 2011 for TPS.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on July 19, 2012.

The applicant's assertions on appeal are without merit. During the initial registration period for the re-designation (May 19, 2011 through November 15, 2011), the applicant could not have been "in process of getting my legal resident status through my husband" as her permanent residence status had been terminated on August 23, 2010. As noted by the director in her decision, the record contains no evidence that the applicant's permanent residence status had been reinstated or that she had been granted permanent residence status subsequent to the termination of her permanent residence status on August 23, 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. The applicant's circumstances outlined on appeal do not meet any of the criteria described in 8 C.F.R. § 244.2(f)(2), and she has not submitted evidence that she has met any of the criteria. Consequently, the director's decision to deny the application 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> The Form I-751 was filed over six months after the second anniversary of the date the applicant became a conditional resident.