



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE:

JUL 25 2013

Office: NEBRASKA 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. § 1254a

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron 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 the applicant failed to establish she was eligible for late registration.

On appeal, counsel requests that the appeal be sustained on humanitarian grounds. Counsel asserts:

The record reflects that the appellant entered the United State on September 27, 2010 but was resent to Haiti after a long illness made it impossible for the family member who was helping her and her children to focus on the care of the whole family.

Appellant's health condition left her no choice than to accept her return to Haiti. As a mother she decided to leave the available help to her children instead of looking for her own interest.

The appellant returned to the United States as soon as her medical status has improved to care for her children from whom she accepted a temporary separation.

Counsel submits medical documents relating to the applicant's visits to the hospitals in New York on November 5, 2010, December 2, 2010 and February 14, 2011.

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 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 re-designated Haiti for TPS eligibility which became effective on July 23, 2011. 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. On October 1, 2012, the Secretary announced an extension of the TPS designation for Haiti until July 22, 2014, upon the applicant's re-registration during the requisite time period.

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 initial TPS application on November 28, 2012. The applicant submitted a copy of her Form I-94, Arrival-Departure Record, which reflected she was admitted into the United States on September 27, 2010, as a nonimmigrant visitor.

USCIS records reflect that the applicant departed the United States on February 24, 2011 and re-entered on May 31, 2011.

On January 2, 2013, 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, asserted that subsequent to her May 31, 2011 entry, she applied for an extension of temporary stay which was approved. The applicant states that she would like to remain in the United States in order to work and help her children.

USCIS records reflect that the applicant filed a Form I-539, Application to Extend/Change Nonimmigrant Status, on August 17, 2011. On November 21, 2011, the extension of temporary stay was approved from December 1, 2011 through May 30, 2012.

The director determined that the applicant failed to file her TPS application within 60-days following the expiration of her nonimmigrant status on May 30, 2012. The director concluded the applicant had failed to establish she was eligible for late registration and denied the application on February 7, 2013.

During the initial registration period, the applicant qualified for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2)(i). However, as discussed above, under the provisions of 8 C.F.R. § 244.2(g), 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 late initial registration. The applicant's 60-day period for late registration expired on July 29, 2012. The applicant filed her TPS application on November 28, 2012, four months after the end of her 60-day period for late registration. The applicant, therefore, has not established that she has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g).

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.