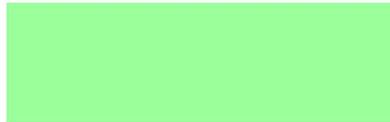


(b)(6)

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

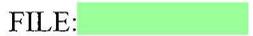
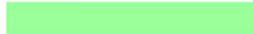


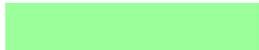
U.S. Citizenship  
and Immigration  
Services



DATE: **SEP 04 2013**

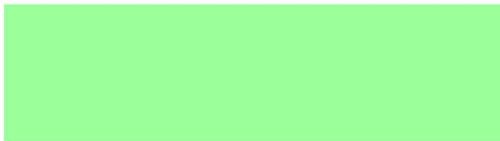
Office: VERMONT SERVICE CENTER

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. . **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

The director denied the application because the applicant failed to establish that he is a national of a foreign state designated by the Secretary, Department of Homeland Security (Secretary), and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The regulation at 8 C.F.R. § 244.2(a) provides that an alien who is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act, may, in the discretion of the director, be granted TPS. Section 101(a)(21) of the Act defines the term "national" to mean a person owing permanent allegiance to a state.

The applicant claims to be a citizen of South Sudan who is seeking TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. At the time the TPS application was filed, the applicant did not present a birth certificate, passport or a national identity document.

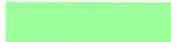
The director, in denying the application, determined that the applicant's affidavit and documents submitted in response to the notice of May 30, 2012, were not sufficient to establish his nationality and identity. The director concluded that the documents were merely his own statements and were not validated based on documentary evidence.

Counsel, on appeal, asserts that the applicant has set forth his own declaration with respect to his identity and the absence of a birth certificate; that the applicant has set forth his attorney's attempts, without success, to obtain a birth certificate; that the State Department, Country Reciprocity Schedule for South Sudan clearly sets forth that there are no birth certificates available for persons in the applicant's position; and that from his initial entry into the United States, the applicant has represented himself to be from Sudan.

The regulation at 8 C.F.R. § 244.9(a)(1) provides that each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity of nationality.

The record, however, does not reflect that the applicant has been interviewed. Therefore, the case will be remanded so that an interview can be scheduled in order to determine the applicant's nationality and identity.

(b)(6)



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The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS. As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The case is remanded to the director for further action consistent with the above.