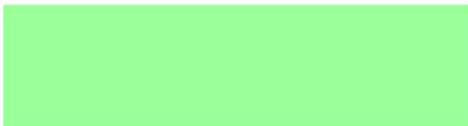




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **SEP 16 2013** Office: CALIFORNIA 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.

Thank you,

Ron Rosenberg  
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 case will be remanded for further action.

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 record reveals that on March 19, 2010, the applicant filed a Form I-821, Application for Temporary Protected Status, under receipt number [REDACTED]. The director, on June 4, 2010, issued a Notice of Decision denying the application as the applicant had previously filed a frivolous asylum application and, therefore, she was permanently ineligible for any benefit under section 244 of the Act. The applicant filed a motion to reopen and motion to reconsider. The director, on March 11, 2011, issued a decision dismissing the motion.

On July 5, 2011, the applicant filed another TPS application [REDACTED], and indicated that she was re-registering for TPS. The director, on December 1, 2011, issued a Notice of Decision denying the application as the applicant had previously filed a frivolous asylum application and, therefore, she was permanently ineligible for any benefit under section 244 of the Act. No appeal or motion was filed from the denial of that application.

On November 30, 2012, the applicant submitted a TPS application [REDACTED], which was rejected on December 11, 2012 due to incorrect or no fee.

The applicant filed the current TPS application, on December 21, 2012, and indicated that this is her "first application to register for Temporary Protected Status (TPS)."

The director treated the application as a re-registration application and determined that because the applicant's initial TPS application had been denied, the applicant was not eligible to apply for re-registration for TPS.

Because the applicant, in this case, was not filing a re-registration application and the director did not explore the possibility that the applicant may have been attempting to file a late initial application for TPS, the decision of the director will be withdrawn.

Accordingly, the case will be remanded so that the director may consider the application and issue a decision under the late initial filing provisions of 8 C.F.R. § 244.2(f)(2). 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 and entry of a decision.