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

(b)(6)

DATE: APR 0 9 2014 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: Self-represented

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
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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, the applicant asserts that she was not aware of the initial registration time as "I was relying on the expertise of some local non profit organization to help me with the process of the TPS application." The applicant states that she is eligible for late registration as she was in a valid nonimmigrant status.

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 March 3, 2014, the Secretary announced an extension of the TPS designation for Haiti until January 22, 2016, 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 he 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 AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012).

The record reflects that the applicant filed her initial TPS application on November 16, 2011. On March 28, 2012, the director denied the application because it was determined that the applicant failed to establish she had continuously resided in the United States since January 12, 2011, and had been continuously physically present in the United States since July

23, 2011.[1] On June 20, 2012, the applicant filed a motion to reconsider. On September 28, 2012, the director denied the motion as it was untimely filed.

The applicant filed the current TPS application on October 19, 2012 and indicated that she was filing a first application to register for TPS.

On April 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 she entered the United States on December 15, 2010 and due to financial hardship in June 2011, she went to to assist with the preparation of her initial TPS application; that she was told three months later her application had not been filed before USCIS; that her second attempt to file a TPS application was subsequently rejected for lack of information; and that upon filing the current TPS application, she was provided the opportunity to present evidence of continuous physical presence in the United States. The applicant requested that the director reconsider the initial TPS application due to gross negligence on the part of The applicant submitted photocopies of:

- Form PS Form 3811, Domestic Return Receipt, establishing that documentation was received at USCIS on October 27, 2011.
- Form I-797C, Notice of Action, dated November 7, 2011 regarding the rejection of the initial TPS application received October 28, 2011.
- The biographical page of her U.S. visa, which indicated that the applicant was admitted into the United States on December 15, 2010 with authorization to stay until June 14, 2011.
- A brochure from

The director, in her decision, indicated that the applicant's non-immigrant status had expired on June 14, 2011; that no evidence was submitted to indicate that her status has been extended; and that because a TPS application was not filed within the 60 days following the expiration of said status, it could not grant the applicant eligibility to file an application under the late initial provisions. 8 C.F.R. § 244.2(g). The director concluded that the documents submitted were not sufficient to establish eligibility for late registration and denied the application on June 21, 2013.

The applicant's statements made in response to the request for evidence and on appeal have been considered. There is no remedy available for an individual who assumes the risk of authorizing an unlicensed attorney or unaccredited representative to undertake representations on her behalf. *See* 8 C.F.R. § 292.1. The AAO only considers complaints based upon ineffective assistance against accredited representatives. *Cf. Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988)(requiring an appellant to meet certain criteria when filing an appeal based on ineffective assistance of counsel).

[1] The director noted that the applicant responded to a request for evidence to address deficiencies in the record, but the submitted evidence was insufficient to establish the applicant's eligibility for TPS.

As no appeal was filed from the denial of the initial TPS application and from the decision to deny the motion, the AAO has no jurisdiction to review that proceeding. Therefore, the director's decision of March 28, 2012, will not be disturbed.

The issue before the AAO is whether the applicant has met the eligibility for late registration. 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 did not file the current application during the initial registration period of the re-designation for Haiti. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g). Consequently, the director's decision to deny the application for 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.