



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: JAN 15 2014 OFFICE: CALIFORNIA SERVICE CENTER

IN RE:

APPLICATION: Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254a

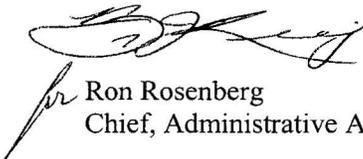
ON BEHALF OF APPLICANT: SELF-REPRESENTED

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 for Temporary Protected Status was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 applicant filed her Form I-821, Application for Temporary Protected Status on January 30, 2013, after the initial registration period and over 60 days after the expiration of her nonimmigrant status.<sup>1</sup> On February 28, 2013, the director issued a request for evidence (RFE), requesting that the applicant submit evidence to establish her eligibility for late initial registration for TPS, her continuous residence and continuous physical presence in the United States, and a copy of her passport and birth certificate. In the RFE, the director delineated the requirements for late initial registration. On June 21, 2013, the director denied the application because the applicant failed to establish that she was eligible for late initial registration for TPS. As noted by the director, the applicant previously filed a TPS application on December 10, 2010 ( [REDACTED] ) that was denied on December 13, 2010, due to the applicant's felony convictions. A subsequent appeal was dismissed by the AAO on April 1, 2011. The AAO upheld the director's decision. The director also noted that on April 10, 2000, the applicant filed a Form I-485, Application to Adjust Status, which was denied on August 12, 2012; however, the current TPS application was not filed until January 30, 2013, over five (5) months after the denial of the Form I-485.

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:

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<sup>1</sup> The applicant indicated that she was filing a new initial application for TPS.

- (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 (May 19, 2011 through November 15, 2011) he or 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).

On appeal, the applicant states that she thought that the Form I-485 had been “denied [a] long time ago not on August 14, 2012, [as she] never received any correspondence after the court date.” The applicant requests consideration to allow her the opportunity to work to support her family.

The applicant’s statement pertaining to hardship she may experience has been considered. However, there is no waiver of the requirement to register for TPS within the registration period, even for humanitarian reasons.

The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) 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 has not submitted evidence that she has met one of those provisions outlined in 8 C.F.R. § 244.2(f)(2). Further, the re-designation of Haiti was announced by public notice in the *Federal Register*, and was made available to the public on the USCIS’ website. Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

Furthermore, even if the applicant were to meet the requirements for late initial registration, she is ineligible for TPS due to her criminal convictions. As noted above, the record reflects that the applicant has three felony convictions and is, therefore, ineligible for TPS.

An alien applying for temporary protected status 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. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.