



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 05 2015**

FILE #: [REDACTED]
APPLICATION RECEIPT #: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, California Service Center, denied the application for re-registration. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and 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. § 1254a. On March 21, 2013, the acting director denied the application for re-registration because the applicant's initial TPS applications had been denied and as such, the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he applied several times for TPS, but each application has been denied or rejected. The applicant requests an explanation why his TPS applications are being rejected as he has been in the United States since 2010.

The record reflects that an initial Application for Temporary Protected Status (Form I-821) filed September 16, 2010 was denied on January 18, 2011, as it was determined that continuous residence and continuous physical presence could not be established because the applicant had entered the United States (February 15, 2010) subsequent to the eligibility period.¹ It was also determined that the applicant's departure in January 2008 under an order of removal from the United States, issued by an immigration judge on September 27, 2000 and affirmed by the Board of Immigration Appeals on March 14, 2002, constituted a self-removal and, therefore, his absence from January 2008 through February 14, 2010 was not brief, casual, and innocent. 8 C.F.R. § 244.1(2). The applicant filed an appeal which was dismissed by our office on April 20, 2011. In dismissing the appeal, we concurred with the director's findings.

The applicant attempted to file several TPS applications between June 21, 2011 and September 26, 2011; however, each one was rejected and returned to the applicant. The applicant was advised of the reason for the rejection in a Notice of Action (Form I-797C) that accompanied each rejected TPS application.

A properly completed TPS application was filed on December 27, 2011; however, it was denied on June 15, 2012, as it was determined that the applicant failed to establish late registration eligibility.² 8 C.F.R. § 244.2(f)(2). No appeal was filed from the denial of that application.³

¹ Under the initial designation of Haiti, applicants must demonstrate continuous residence in the United States since January 12, 2010, and continuous physical presence in the United States since January 21, 2010.

² As the TPS application received on September 26, 2011 was not cured of its deficiency within 45 days from the date it was rejected and the initial registration period had expired, the director treated the application filed on December 27, 2011 as a late initial filing.

³ The applicant sent a Notice of Appeal or Motion (Form I-290B) with fee to the AAO; however, it was returned to the applicant on July 12, 2012 with instructions to where the Form I-290B must be filed.

The applicant filed the current TPS application on October 10, 2012, and indicated that he was re-registering for TPS or renewal of temporary treatment benefits.

The re-registration period is limited to individuals: 1) who have previously registered for TPS under the designation of Haiti and whose applications have been granted; or 2) who have not previously applied for TPS and meet at least one of the criteria under the late initial registration provisions described in 8 C.F.R. § 244.2(f)(2), as well as all other TPS eligibility criteria. Extension of the Designation of Haiti for Temporary Protected Status, 79 Fed. Reg. 11808 (March 5, 2014).

At the time the current TPS application was filed, the applicant did not have a granted TPS application. Furthermore, as found in the decisions of January 18, 2011 and June 15, 2012, the applicant has not established that he has met the provisions outlined in 8 C.F.R. § 244.2(f)⁴ for initial or late registration. Therefore, the applicant is not eligible to re-register for TPS, and the acting director's decision to deny the current re-registration application will be affirmed.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

⁴ The requirements in 8 C.F.R. § 244.2(f) indicate an applicant must:

- (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.