



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF W-L-

DATE: NOV. 20, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

APPLICATION: FORM I-821, APPLICATION FOR TEMPORARY PROTECTED STATUS

The Applicant, a native and citizen of Haiti, seeks temporary protected status (TPS). *See* Immigration and Nationality Act (the Act) § 244, 8 U.S.C. § 1254(a). The Director, California Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

On March 12, 2015, the Director denied the application because the Applicant did not establish eligibility for late registration. On appeal, the Applicant asserts that the Director failed to establish the basis for the denial of the application. The Applicant also asserts that his application should be granted as he has met the eligibility requirements including continuous residence and continuous physical presence in the United States.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

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, as defined in section 101(a)(21) of the Act, of a foreign 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.

The Secretary designated (January 21, 2010) and redesignated (July 23, 2011) Haiti as a country eligible for TPS. Under the redesignation, persons applying for TPS offered to Haitians (and persons without nationality who last habitually resided in Haiti) must demonstrate that they have continuously resided in the United States since January 12, 2011, and that they have been continuously physically present in the United States since July 23, 2011. The TPS designation has been extended several times, with the latest extension granted until July 22, 2017.

To meet the initial registration requirements for the redesignation in 8 C.F.R. § 244.2(f)(1), Haitian applicants must have filed TPS applications during the initial registration period, May 19, 2011, through November 15, 2011. If applicants did not file their initial TPS applications during this time period, they must meet the late registration requirements as stated above in 8 C.F.R. § 244.2(f)(2). Specifically, to qualify for late registration, the Applicant must provide evidence that during the initial registration period for redesignation (May 19, 2011, through November 15, 2011) the Applicant fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or status 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 the above requirements are met. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). To meet this burden of

proof, the Applicant must provide supporting documentary evidence of eligibility apart from the Applicant's own statements. *Id.*

The evidence of record reflects that the Applicant had filed a TPS application on June 14, 2011, which was denied by the Director due to abandonment on February 21, 2012. No motion was filed from the denial of that application.¹ The Applicant's application for re-registration, which was filed on November 16, 2012, was denied on April 23, 2013. The Applicant appealed that decision, which we dismissed on September 19, 2014. In that dismissal, we concurred with the Director's finding that the Applicant was not eligible to re-register for TPS because he was not a current TPS registrant. We also found that the Applicant had not establish continuous residence in the United States since January 12, 2011, and continuous physical presence in the United States since July 23, 2011, as required by 8 C.F.R. § 244.2(b) and (c). The Applicant's application for re-registration filed April 28, 2014, was also denied by the Director on August 18, 2014, because the Applicant had not been granted TPS.

The Applicant filed the current TPS application on December 8, 2014, and indicated at Part 1 that it was his first application to register for TPS. In order to apply for TPS, an application may be filed during the initial registration period or during the subsequent extension of the country's designation period. 8 C.F.R. § 244.2(f). An application may also be filed within a 60-day period immediately following the expiration or termination of the qualifying condition. 8 C.F.R. § 244.2(g). In the instant case, the Applicant's initial application had been denied, and the initial registration period to file a subsequent TPS application for the country's designation expired on November 15, 2011. Therefore, the Director treated the current application as a new filing for TPS under the late registration provisions outlined in 8 C.F.R. § 244.2(f)(2) and (g).

The provisions for late registration outlined in 8 C.F.R. § 244.2(f)(2) ensure that TPS benefits are made available to individuals who did not register during the initial registration period for the various circumstances specifically outlined in the regulations. Filing an application for TPS during the initial registration period does not render an individual eligible for late registration as it is not an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal as required under 8 C.F.R. § 244.2(f)(2)(ii). The Applicant, on appeal, does not submit additional evidence to satisfy the late registration provisions outlined in 8 C.F.R. §§ 244.2(f)(2) or (g), and the record does contain evidence of late registration eligibility. Consequently, the Director's decision that the Applicant had not established eligibility for late registration will be affirmed.

Further, as stated in our decision of September 19, 2013, the evidence of record does not support the Applicant's assertion that he has met the requirements for continuous residence and continuous physical presence in the United States during the requisite periods.

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.

¹ A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

Matter of W-L-

ORDER: The appeal is dismissed.

Cite as *Matter of W-L-*, ID# 14983 (AAO Nov. 20, 2015)