



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

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

MATTER OF M-T-

DATE: SEPT. 3, 2015

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

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

On September 17, 2014, the Director denied the application because the applicant did not establish eligibility for late registration.

On appeal, the Applicant explains that he did not apply for TPS during the initial registration period because he was in nonimmigrant status at that time and did not have the funds to immediately apply for TPS after his status expired.

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 as designated by the Attorney General, now the Secretary, Department of Homeland Security (Secretary), is eligible for TPS only if such applicant 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 Haitian (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 January 22, 2016, upon the applicant's re-registration during the requisite period.

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 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 United States 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.

8 C.F.R. § 244.9(b). To meet his or her burden of proof, the Applicant must provide supporting documentary evidence of eligibility apart from his own statements. *Id.*

To qualify for late registration, the Applicant must provide evidence that during the initial registration period from May 19, 2011, through November 15, 2011, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed 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 record reflects that the Applicant filed the initial application on May 1, 2014.

On June 28, 2014, the Applicant was provided the opportunity to submit evidence establishing eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The Applicant responded that he had previously been in nonimmigrant status.

The Director denied the application on September 17, 2014. On appeal, the Applicant explained that he did not file his application during the designated filing period because he had been in nonimmigrant status. The Applicant further explained that his nonimmigrant status expired on August 3, 2013, but he did not apply for an extension of status because he was unable to afford the application fee at that time.

USCIS records confirm that the Applicant was granted nonimmigrant status from August 4, 2009, August 3, 2013. Since the Applicant was in nonimmigrant status during the filing period from May 19, 2011 through November 15, 2011, he is eligible for late registration. USCIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of such conditions. 8 C.F.R. § 244.2(g). In this case, the Applicant did not file his initial TPS application within 60 days of the termination of his nonimmigrant status on August 3, 2013. The Applicant filed his application for TPS with the director on May 1, 2014.¹

As the Applicant did not file his application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g), the Director's decision to deny the application for TPS will be affirmed.

In application proceedings, it is an 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 It is noted that USCIS records show that the Applicant applied for an extension of his nonimmigrant status on June 25, 2014. That application was denied on December 4, 2014.

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ORDER: The appeal is dismissed.

Cite as *Matter of M-T-*, ID# 12929 (AAO Sept. 3, 2015)