



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

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

MATTER OF H-B-

DATE: JUNE 6, 2016

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) section 244, 8 U.S.C. § 1254a. Temporary protected status provides lawful status and protection from removal for foreign nationals, of specifically designated countries, who register during designated periods, satisfy country-specific continuous residence and physical presence requirements, are admissible to the United States, are not firmly resettled in another country, and are not subject to certain criminal- and security-related bars.

The Director, California Service Center, denied the application. The Director concluded that the Applicant did not establish his eligibility for late initial registration for TPS.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and states that the Director erred in denying the application.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking TPS. Section 244 of the Act, 8 U.S.C. § 1254a, 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 the 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.
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- (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 burden of proof is upon the Applicant to establish that the above requirements are met. *See* 8 C.F.R. § 244.9(a)(3). 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. 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.*

II. ANALYSIS

The issue in this proceeding is whether the Applicant is eligible for late initial registration for TPS. On appeal, the Applicant states that he filed his TPS application late because he was not aware of the TPS benefit for Haitian nationals. He asserts that the Director's decision to deny his TPS application is harsh, unjustifiable, unlawful, and prejudicial. The Applicant does not support these assertions

with legal authority and does not submit evidence to establish his eligibility for late initial registration. The record, moreover, does not establish that the Applicant falls within any of the enumerated categories for late initial registration for TPS. Therefore, we will dismiss the appeal.

A. Eligibility

As stated above, the Applicant has been found ineligible for late initial registration for TPS.

1. Late Registration

An applicant who did not register for TPS during the initial registration period or subsequent extension of such designation may qualify for late registration upon satisfaction of the conditions in 8 C.F.R. § 244.2(f)(2), (g). To qualify for late registration, an 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). Further, if the qualifying condition or application expired or was terminated, an applicant must file for TPS within a 60-day period immediately following the expiration or termination of the qualifying condition. 8 C.F.R. § 244.2(g).

The Secretary redesignated Haiti as a country eligible for TPS. Under the redesignation, persons applying for TPS offered to Haitians 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 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 Applicant has not shown that he meets the criteria for late initial registration for TPS. The record reflects that the Applicant filed his initial TPS application on October 1, 2014, without supporting evidence to establish his eligibility for late initial registration. The Applicant had submitted some evidence, including copies of income-tax returns and his work authorization documents, to show he resided in the United States during part of the relevant period. The Director subsequently requested that the Applicant submit evidence concerning his eligibility for late initial registration. In response to the Director's request, the Applicant did not submit additional evidence but stated that he continues to be in non-immigrant status and that he continues to be physically

present in the United States. The Applicant provided no evidence, and the record does not show, that he was in non-immigrant status at the time he filed his TPS application.

The Applicant also asserts that the decision to deny the application was harsh, unjustifiable, unlawful, and prejudicial. The Applicant, however, does not support his assertions with legal authority or explain how the Director's decision may have been incorrect or prejudicial.

The record reflects that the Applicant filed a Form I-589, Request for Asylum in the United States, in 1994, which was terminated later that year for lack of prosecution. Although pursuant to 8 C.F.R. § 244.2(f)(2)(ii), TPS applicants with asylum applications that are pending or subject to further review may be eligible for late initial registration, the Applicant's asylum application was not pending or subject to further review when he filed his TPS application in 2014. The Applicant submits no evidence to establish he meets the criteria for late registration.

The provisions for late registration outlined in 8 C.F.R. § 244.2(f)(2), (g) were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period due to circumstances specifically identified in the regulations. The Applicant has not established that he has met the provisions outlined in 8 C.F.R. §§ 244.2(f)(2), (g) for late registration.

III. CONCLUSION

An applicant for TPS has the burden of proving that he or she meets the requirements for this benefit and is otherwise eligible under the provisions of section 244 of the Act. The Applicant has not established eligibility for TPS. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of H-B-*, ID# 16397 (AAO June 6, 2016)