



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

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

MATTER OF K-M-K-

DATE: JUNE 20, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native and citizen of Sierra Leone, 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, Texas Service Center, denied the application. The Director concluded that the Applicant did not establish the requisite continuous residence and physical presence.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence. She also states that she has resided in the United States since her arrival from Sierra Leone in September 2014 and has not departed.

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 such foreign national 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[.]

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 first issue in this proceeding is whether the Applicant has established that she has continuously resided in the United States from November 21, 2014, which is the date the Secretary designated as the beginning of the initial registration period for TPS applicants from Sierra Leone, through February 6, 2015, the date she filed her TPS application. Similarly, we must address whether the Applicant has established her continuous physical presence in the United States during the same time period. On appeal, the Applicant states that she has resided in Maryland since she arrived in the United States on September 28, 2014, and she has not left the United States since that date. The Applicant does not, however, provide sufficient evidence of her continuous residence and presence throughout the requisite period. An affidavit from her mother submitted with her application and again on appeal lacks detail and is not supported by corroborative evidence. The Applicant also submitted copies of her passport, visa, birth certificates for herself and her child, her travel itinerary, and dental records for treatment she received in April and May 2015. These documents, however, reflect dates of events occurring outside of the requisite period and therefore are not probative of the Applicant's continuous residence and physical presence in the United States. Therefore, we find the evidence does not establish the Applicant's eligibility for TPS.

A. Eligibility

The Applicant has been found ineligible for TPS under section 244(c)(1)(A)(i) and section 244(c)(1)(A)(ii) of the Act.

1. Continuous Physical Presence

The Applicant asserts that she has been continuously physically present in the United States since the effective date of the most recent designation of Sierra Leone for TPS. The regulation at 8 C.F.R. § 244.1 provides:

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Continuously physically present means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

On November 21, 2014, 2012, the Secretary designated Sierra Leone as a country eligible for TPS. This designation allowed nationals of Sierra Leone who have been continuously physically present in the United States since November 21, 2014, to apply for TPS. The initial registration period for the designation began on November 21, 2014, and ended on August 18, 2015. On March 22, 2016, the Secretary announced an extension of the TPS designation for Sierra Leone until November 21, 2016, upon the applicant's re-registration during the requisite time period from March 22, 2016, to May 23, 2016.

On appeal, the Applicant states that she departed Sierra Leone with her two children on September 28, 2014, during the Ebola epidemic; that she arrived in Maryland on September 29, 2014; and that she has resided with her mother in Maryland since her arrival in the United States. The Applicant submitted the following evidence:

- Two affidavits from her mother, the first submitted with the Applicant's Form I-821, in response to the Director's request for evidence, and the other with the appeal. In both the Applicant's mother attests that since September 28, 2014, the Applicant has lived with her at her residence in [REDACTED] Maryland. The record includes evidence establishing their relationship.
- Pages of the Applicant's Sierra Leone passport showing a September 28, 2014, departure stamp from Sierra Leone; and airline reservation summaries showing that the Applicant and her two children were scheduled to depart [REDACTED] Sierra Leone, on September 28, 2014, and to arrive at [REDACTED] the following day.
- A letter from the Applicant requesting TPS and two Forms I-797C, Rejection Notices, dated January 7, 2015, notifying the Applicant that her Form I-821 and Form I-765, Application for Employment Authorization, were rejected due to insufficient fees.
- An insurance card issued to the Applicant and a patient history record, dated June 18, 2015, listing dental services she received from April 15, 2015, through May 19, 2015, and listing the Applicant's address in [REDACTED] Maryland.
- A letter accompanying the Applicant's Social Security card issued June 25, 2015, addressed to the Applicant at her mother's address in [REDACTED] Maryland.

We do not find the evidence sufficient to establish the requisite continuous physical presence, because it does not show that the Applicant was physically present from November 21, 2014, to February 6, 2015, the date she filed her TPS application. The Applicant submitted affidavits, dated July 21, 2015, and August 11, 2015, from her mother who attests that the Applicant has resided with

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her at her home in [REDACTED] Maryland, since September 28, 2014. The affiant does not provide details of the facts and circumstances surrounding the Applicant's presence to establish that the Applicant did, in fact, reside with her. Also, the record does not include relevant supporting documentation, such as school records, medical records, correspondence, and additional attestations, to establish that the Applicant was in the United States during the requisite period.

The only types of affidavits listed as acceptable evidence of a foreign national's continuous residence and continuous physical presence in the United States at 8 C.F.R. § 244.9(a)(2) are: affidavits supplied by employers; affidavits supplied by organizations with which a self-employed alien has done business; and, affidavits supplied by officials of organizations of which the applicant has been a member. The regulation at 8 C.F.R. § 244.9(a)(2) does not list affidavits of witness from friends, acquaintances, or family members as acceptable evidence of continuous residence and continuous physical presence during the requisite time frames. While such affidavits may be given some consideration under the provision of 8 C.F.R. § 244.9(a)(2)(vi)(L) as "any other relevant document," the evidentiary standard set forth at 8 C.F.R. § 244.9(a)(2) clearly gives greater evidentiary weight to contemporaneous documents as proof of a foreign national's continuous residence and continuous physical presence in the United States during the requisite periods.

Moreover, the passport and travel documentation the Applicant provides shows that she entered the United States with her two children on September 29, 2014, before the beginning of the requisite period. The record also includes the Applicant's first attempted filing of her Forms I-821 and I-765, signed on December 2, 2014, and stamped received on December 18, 2014; and a receipt for two passport photos, dated December 28, 2014. This evidence shows the Applicant was present during in December 2014, but it is insufficient to establish her continuous presence in the United States from November 21, 2014, to February 6, 2015.

The Applicant submits several documents that are dated outside of the relevant period that do not establish her physical presence in the United States. Her patient history record, which includes a description of the Applicant's dental appointments between April and May 2015 and the Applicant's mother's Maryland address, and the letter accompanying the Applicant's Social Security card, issued in June 2015 and addressed to the Applicant at her mother's address, establish that the Applicant was present in the United States in April and May 2015. This period, however, is after the requisite period, and thus the evidence is insufficient to establish the Applicant's presence between November 21, 2014, and February 6, 2015.

2. Continuous Residence

The Applicant asserts that she has continuously resided in the United States since the date designated for Sierra Leone, in accordance with section 244(c)(1)(A)(ii) of the Act. The regulation at 8 C.F.R. § 244.1 provides:

Continuously resided means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as

defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The evidence provided to establish the Applicant's continuous residence in the United States during the requisite period consists of the same evidence described above. The Applicant's mother's affidavits, in which she attests that from September 28, 2014, the Applicant resided with her at her home in Maryland, is insufficient to establish the Applicant's continuous residence. The affiant does not provide details to establish that the Applicant did, in fact, reside with her throughout the relevant period. For example, although the Applicant states that it is difficult for her mother to continue supporting her and her children, the affidavits contain no information about supporting the Applicant and her children or the timing and nature of any such support. Also, the record does not include supporting documentation, such as school records, medical records, correspondence, and additional attestations, to establish that the Applicant was in the United States during the requisite period. Therefore, the Applicant's mother's affidavits do not establish the Applicant's continuous residence during the requisite period. As noted above, the record includes evidence that the Applicant first attempted to file her Forms I-821 and I-765 in December 2014, and a receipt for two passport photos dated December 2014. As discussed above, the remaining evidence is dated outside of the relevant period and therefore are not probative of the Applicant's continuous residence in the United States during throughout the requisite period. The record, therefore, lacks sufficient evidence of the Applicant's continuous residence in the United States from November 20, 2014, to February 6, 2015.

We find that the evidence does not establish the Applicant's continuous residence and her continuous physical presence throughout the requisite period, because it consists of uncorroborated assertions and primarily reflects her presence and residence during periods outside of the time specified in the regulations.

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 K-M-K-*, ID# 16149 (AAO June 20, 2016)