



U.S. Department of Justice

Immigration and Naturalization Service



OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

FILE:



Date:

APR 28 2000

IN RE

APPLICATION:



IN BEHALF OF APPLICANT:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS
Terrance M. O'Reilly

Terrance M. O'Reilly, Director
Administrative Appeals Office

APR 28 2000

DISCUSSION: The application was denied by the District Director, Baltimore, Maryland, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The district director denied the application for Temporary Protected Status (TPS) under § 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254, because the applicant, a native and citizen of Sierra Leone, failed to register for TPS status during the period November 4, 1997 to November 3, 1998.

On appeal, counsel states that the applicant never knew that there was a deadline for TPS registration. Counsel states that the applicant's parents are in a refugee camp in Guinea, and he needs to work in order to help support them.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244, provide, in part, that an applicant who is a national of Sierra Leone is eligible for temporary protected status only if such alien establishes that the alien-

(1)(A). Is a national of a state designated under subsection (b)(1);

(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for TPS under paragraph (2)(B); and

(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for TPS under this section during a registration period of not less than 180 days.- or (as expanded in 8 C.F.R. 244.2)

(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.

(3) Eligibility for late initial registration in a currently designated foreign state shall also continue until January 15, 1999, for any applicant who would have been eligible to apply previously if paragraph (f)(2) of this section as revised had been in effect before November 16, 1998.

Sierra Leone was designated under § 244(b) of the Act with designated extensions until November 3, 1999.

The term continuously physically present as used in 8 C.F.R. 244.1 means actual physical presence in the United States for the entire period specified in the regulations and continuous residence from November 4, 1997. 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.

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 the Service. 8 C.F.R. 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. 244.9(b).

Service records reflect that the applicant was admitted to the United States on July 21, 1991, as a nonimmigrant visitor with authorization to remain until July 20, 1992. The applicant has never departed from the United States and has been continuously physically present in the United States since November 4, 1997. The record also reflects that the applicant registered for TPS status on December 2, 1998, during an authorized extension period. Consequently, the applicant is now eligible for the benefit of temporary protected status.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of § 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained. The district director's decision is withdrawn, and the application is approved.