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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: [redacted] Date: NOV 30 2010

IN RE: Applicant: [redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the [redacted] Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the [redacted] by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, [redacted] and is now before the Administrative Appeals Office on appeal. The case will be remanded for further consideration and action.

The applicant claims to be a citizen of [redacted] who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because it appeared that the applicant had firmly resettled in another country prior to her arrival in the United States.

On appeal, the applicant asserts that prior to her arrival in the United States, she was not firmly resettled in any other country except [redacted]

An alien shall not be eligible for TPS if the Attorney General, now the Secretary, Department of Homeland Security (Secretary), finds that the alien was firmly resettled in another country prior to arriving in the United States. Sections 244(c)(2)(B)(ii) and 208(b)(2)(A)(vi) of the Act.

As defined in 8 C.F.R. § 208.15, an alien is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes:

> (a) That his or her entry into that country was a necessary consequence of his or her flight from persecution, that he or she remained in that country only as long as was necessary to arrange onward travel, and that he or she did not establish significant ties in that country; or
>
> (b) That the conditions of his or her residence in that country were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled. In making his or her determination, the asylum officer or immigration judge shall consider the conditions under which other residents of the country live; the type of housing, whether permanent or temporary, made available to the refugee; the types and extent of employment available to the refugee; and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation that includes a right of entry or reentry, education, public relief, or naturalization, ordinarily available to others resident in the country.

Along with her TPS application filed on February 5, 2010, the applicant submitted a copy of her [redacted] passport issued on June 3, 1986 by the Consulate General of [redacted] in [redacted] The passport listed the applicant's residence in the [redacted] The applicant indicated on her TPS application that her husband and three of her children were residing in [redacted]

On March 26, 2010, a notice was issued requesting the applicant to provide her addresses for three years prior to her entry into the United States. The applicant was informed that if she has resided in another country other than [redacted] prior to entering the United States, she was to provide an explanation of her immigration status in that country; whether she had lawful permission to be in that country; whether her permission was temporary or permanent; her reasons for being in that country; the reason for leaving; whether she was a refugee from another country; whether she had the same privileges provided to other persons who lived permanently in the country; and reasons why she did not consider herself to have been firmly resettled in the country other than [redacted] before entering the United States.

The applicant, in response, provided her address while residing in [redacted] copies of her birth and baptism certificates with English translations, and a copy of a Permit to Reside issued by the [redacted] immigration. The permit, which was a renewal and issued on August 4, 1995 for one year, authorized the applicant to enter and remain in the [redacted] for the purposes of residing with her husband. The permit did not allow the applicant to engage in any gainful occupation.

The director determined that the applicant failed to state any reasons why she did not consider herself to be firmly resettled in the [redacted] Based on the foregoing, the director concluded that the applicant was ineligible for TPS under section 244 of the Act and denied the application on May 12, 2010.

On appeal, the applicant asserts, in pertinent part:

> Prior to my arrival in the United States of America, I was not firmly resettled in another country other than [redacted] I was living in my native country with fear for my physical safety and the future of my children due to human right abuses and unarrested assassins that raid in my neighborhood and the other parts of the country almost every day; consequently, I decided to leave [redacted] and entered to United States of America exactly on October 3, 1995, in a fly from [redacted] to [redacted] where I am living with three children including the one who was born here since that day.
>
> More precisely, I left [redacted] on August 9, 1995, and past by [redacted] where I spent five days and entered to [redacted] on August 14, 1995.
>
> I left [redacted] to [redacted] on July 25, 1981, where I was lived illegally for five years. In 1986, the life of immigrants in [redacted] was a veritable nightmare, even you have legal document or not, the bleeding heart policy was deteriorated in the daily basic, immigrants, were detained, slapped, and abused. I was afraid of being victimized at any moment. As a result, I left [redacted] and went back to [redacted] on July 11, 1986.
>
> Nevertheless, on February 15, 1994, I was returned to [redacted] hopefully things will be better. One year and haft later, I was granted a Permit to remain in [redacted] for the period of one year (From August 4, 1995 to July 29, 1996). That permit was not a permanent resident status, citizenship, work permit, or permanent resettlement.

I was married to a [redacted] He has been abandoned me since 2002. Since then, I do not know anything about him. Be married with a [redacted] doesn't mean you lose your nationality automatically.

A review of the documentation submitted throughout the application process does not support a finding that the applicant had received an offer of permanent resident status, citizenship, or some other type of permanent resettlement. The fact that the Permit to Reside was a renewal and good for only a year, and the applicant was not authorized to engage in gainful employment is evidence that the applicant had not been offered permanent resettlement. The record contains no other evidence to establish that an offer of permanent resident status, citizenship or some other type of permanent resettlement was made. 8 C.F.R. § 208.15.

Therefore, the applicant has overcome the director's sole reason for denial of the application and the decision of the director will be withdrawn

However, the evidence contained in the record is insufficient to establish the applicant's qualifying continuous residence in the United States since January 12, 2010, and continuous physical presence since January 21, 2010, as described in 8 C.F.R. § 244.2(b) and (c). It is noted that the only documents provided to establish that the applicant met these criteria during the qualifying periods are: 1) two rents receipts dated October 3, 2009 and January 2, 2010; 2) copies of her [redacted] identification card and driver license, which expired on August 12, 1999, and June 12, 2005, respectively; and 3) two electric bills dated April 30, 2009 and December 31, 2009.

Therefore, the case will be remanded to the director for further adjudication of the application. The director may request any additional evidence that she considers pertinent to assist with the determination of the applicant's eligibility for TPS. Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

ORDER: The director's decision is withdrawn. The case is remanded for further action consistent with the above and entry of a new decision.