

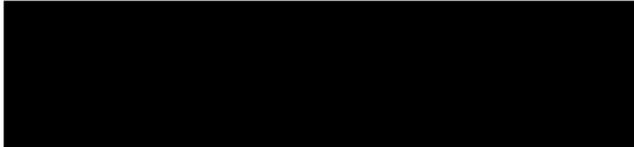
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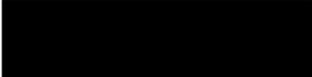
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



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FILE:  Office: CALIFORNIA SERVICE CENTER

Date: FEB 03 2011

IN RE: Applicant: 

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

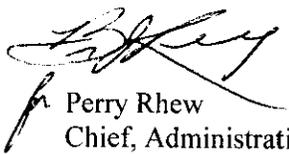
ON BEHALF OF APPLICANT: Self-represented

**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 California Service Center. 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 California Service Center by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010, must be filed with the \$630 fee. 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, California Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti 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 was determined that the applicant ordered, incited, assisted or otherwise participated in the persecution of others.

On appeal, the applicant asserts that he was never recruited as a FRAPH member and was never part of a criminal group that persecuted individuals. The applicant asserts that ninety-five percent of the information on the asylum application was written without his knowledge.

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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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.

Section 244(c)(2)(B)(ii) of the Act provides that an alien shall not be eligible for TPS under this section if the Secretary finds that the alien is described in section 208(b)(2)(A) of the Act.

Section 208(b)(2)(A)(i) of the Act states, in pertinent part:

- (A) In general – Paragraph (1) shall not apply to an alien if the Attorney General determines that that – (i) the alien ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

The applicant testified to an Asylum Officer on August 6, 1997, that he was forced to join Front for the Advancement and Progress of Haiti (FRAPH) to save his life. The applicant testified that he was stationed in rue Joseph Janvier and was issued a baton, a “38”, an identification card and

wore a T-shirt bearing the logo FRAPH police. The applicant testified that he and other members of FRAPH broke up demonstrations of Aristide supporters, assaulted and arrested individuals and took them to the FRAPH headquarters in rue Champs de Mars. The applicant testified that he carried out these missions from February 1994 to October 1994. The applicant testified he was not aware of what happened to the prisoners once he turned them into headquarters because he never saw them again. The applicant testified that he never interrogated or detained anyone; he only threatened those who talked back to him by telling them that he could "break them apart."

The director determined that the applicant had ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. Therefore, the applicant was determined to be ineligible for TPS and his application was denied on July 27, 2010.

On appeal, the applicant fails to provide any documentation to overcome the director's finding. By his own admission, the applicant was an armed member of FRAPH and he assaulted individuals and took them to the FRAPH headquarters. The persecutor bar applies even if the applicant did not personally commit the persecutory act, so long as the applicant ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. Consequently, the director's decision to deny the application for TPS will be affirmed.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

While not the basis for the dismissal of this appeal, it is noted that the record reflects that a removal hearing was held on May 4, 1999, and the applicant was removed *in absentia*. A motion to reopen was subsequently filed, which was granted by the immigration judge on November 30, 2004. On July 19, 2006, a removal hearing was held and the applicant's asylum application was denied and he was ordered removed from the United States. The applicant appealed the immigration judge's decision to the Board of Immigration Appeals (BIA). On October 12, 2006, the BIA dismissed the appeal due to lack of jurisdiction (appeal was untimely filed). On December 29, 2008, the applicant filed a motion before the BIA, which was denied for lack of jurisdiction on February 23, 2009.

**ORDER:** The appeal is dismissed.