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

(b)(6)

DATE: FEB 2 6 2013 Office: CALIFORNIA SERVICE CENTER

IN RE: Applicant:

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

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a 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 had firmly resettled in another country prior to arriving in the United States.

On appeal, the applicant asserts that she entered the United as a Haitian with a valid B1/B2 visa. The applicant states that she has been residing in the United States since December 2000. The applicant states, "[a]lthough I lived in France, but it was temporary because my refugee status was expired on January 9, 2005."

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.

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants must submit all documentation 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. To

meet her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

USCIS records reflect that on December 30, 1997 and April 19, 1999, the applicant was issued a U.S. visa in Paris, France. The biographical page of each visa lists the applicant's nationality as "XXX."[1]

The record also reflects the applicant filed a Form I-589, Application for Asylum and for Withholding of Removal, on May 9, 2001. A removal hearing was held on June 12, 2003, and the applicant withdrew the Form I-589. The applicant was granted voluntary departure from the United States on or before August 11, 2003. On March 10, 2006, the applicant filed a motion to reopen. On May 1, 2006, the motion was denied by the Board of Immigration Appeals.

On October 27, 2011, 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 had resided in another country other than Haiti 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; the 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 Haiti before entering the United States.

The applicant was also requested to submit copies of all her passports showing entries and departures, records establishing citizenship of any other country than Haiti, and visas, residence cards or other immigration documents from any other country than the United States where she had resided.

The applicant, in response, submitted a copy of her French resident card which indicates her date of entry into France as May 1989. The resident card was issued on January 10, 1995 and expired on January 9, 2005. The applicant also submitted copies of her travel document issued in France and her U.S. visas issued in Paris, France.

The director determined that the applicant had failed to address all of the information listed in the notice of October 27, 2011. The director concluded that the applicant had been firmly resettled in France and, therefore, she was ineligible for TPS under section 244 of the Act. Accordingly, the director denied the application on February 21, 2012.

Based on the evidence in the record of proceeding, at the time the applicant applied for asylum status in the United States, she had applied for and was granted refugee status in France. The applicant was a resident of France for over eleven years prior to her entry into the United States on December 12, 2000. As such, the applicant's stay in France was much longer than necessary to

[1] No claimed citizenship.

arrange onward travel. 8 C.F.R. § 208.15(a). On appeal, the applicant does not provide: (a) a reasonable explanation for not addressing all the information outlined in the director's notice of October 27, 2011; (b) any evidence to establish that an offer of permanent resident status, citizenship or some other type of permanent resettlement was not made pursuant to 8 C.F.R. §208.15; and (c) any evidence that her residence card would not have been automatically renewed. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). 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 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.

ORDER: The appeal is dismissed.