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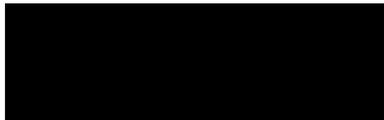
**PUBLIC COPY**

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

M,



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

**DEC 13 2010**

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, 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, 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 the applicant failed to establish she had: 1) continuously resided in the United States since January 12, 2010; and 2) been continuously physically present in the United States since January 21, 2010.

On appeal, the applicant asserts that she was in the United States prior to January 12, 2010, as she was visiting her family in Miami. The applicant requests that her application be reconsidered and approved. The applicant submits additional documentation in support of her appeal.

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 as designated by the Attorney General, now the Secretary, Department of Homeland Security (Secretary), 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; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (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.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, 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.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, 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.

Persons applying for TPS offered to Haitians must demonstrate continuous residence in the United States since January 12, 2010, and continuous physical presence in the United States since January 21, 2010.

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 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 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).

On her TPS application, the applicant indicates her date of entry into the United States as February 19, 2010. At Part 4, the applicant indicates that she entered the United States on February 19, 2010, and has resided in Miami, Florida since that time.

Along with her TPS application, the applicant submitted:

- Copies of her U.S. visas issued on July 8, 2008 and July 7, 2009 in Port Au Prince, Haiti.
- A copy of her Form I-94, Arrival-Departure Record, which indicates she was admitted into the United States on February 19, 2010, as a nonimmigrant visitor.

On April 28, 2010, the applicant was requested to submit evidence establishing her continuous residence since January 12, 2010 and continuous physical presence since January 21, 2010, in the

United States. The applicant, in response, asserted that she “entered the United States prior to the devastating earthquake that destroyed Haiti on January 12, 2010. I was in Miami, Florida visiting my family when I heard the news.” The applicant provided a copy of her Haitian passport, which reflected arrival and departure stamps to and from Haiti, specifically an arrival stamp dated July 22, 2008, and departure stamps dated July 15, 2008, and February 19, 2010.

The director noted that USCIS records reflect that the applicant departed Haiti and entered the United States on July 15, 2008, she then returned to Haiti on July 22, 2008, and her next arrival into the United States was on February 19, 2010. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on August 10, 2010.

On appeal, the applicant submits a letter from the [REDACTED] Church in Miami, Florida signed by the pastor, [REDACTED] and the secretary, [REDACTED] who indicated that since November 22, 2008, the applicant has been a member of its church.

This letter raises question to its authenticity as the applicant departed the United States on July 22, 2008 and did not reenter until February 19, 2010. The applicant has not provided any credible evidence to establish that she reentered the United States subsequent to her July 22, 2008 departure and prior to her February 19, 2010 entry. In addition, the applicant indicated on her TPS application to have continuously resided in the United States since February 19, 2010. Therefore, the reliability of the letter offered by the applicant has no probative value or evidentiary weight.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant's statements on appeal have been considered. However, the applicant was not residing in the United States on or before January 12, 2010, and was not physically present in the United States on or before January 21, 2010. Therefore she has, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). 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.

**ORDER:** The appeal is dismissed.