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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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NOV 03 2010

FILE:  Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: 

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

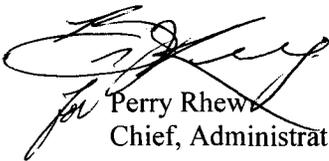
ON BEHALF OF APPLICANT:



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.

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 sustained.

Section 244(c)(1)(A) of the Act, and the related regulations in 8 C.F.R. § 244.2(a), 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 is a national of a state designated under section 244(b) of the Act.

The regulation at 8 C.F.R. § 244.9(a)(1) provides, in part:

Each application must be accompanied by evidence of the applicant's identity and nationality. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:

- (i) Passport;
- (ii) Birth Certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

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.

Along with his TPS application and in response to the notice dated April 6, 2010, the applicant provided copies of his school identification cards and a copy of his birth certificate in an attempt to establish his nationality and identity. The director, in denying the application on May 7, 2010, determined that the documents submitted were not sufficient to establish nationality with a designated foreign state, and, therefore, the applicant had failed to establish his nationality and identity.

On appeal, counsel provides a copy of the applicant's Haitian passport, which was issued on May 28, 2010, and copies of documents that were previously presented to establish the applicant's identity and nationality.

The applicant, has met the eligibility requirements of being a national of a state designated under section 244(b) of the Act. As the applicant has demonstrated that his nationality is that of a TPS-designated country, the director's decision to deny the application will be withdrawn.

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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 met this burden.

ORDER: The appeal is sustained.