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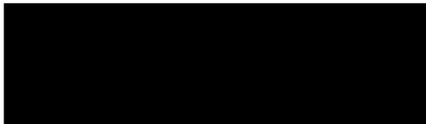
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



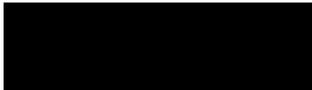
U.S. Citizenship
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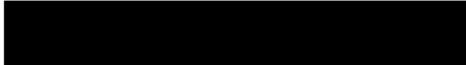
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FILE:



Office:



Date:

NOV 30 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 [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 (AAO) 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 was determined that the applicant had firmly resettled in another country prior to arriving in the United States.

On appeal, the applicant requests that the AAO weigh all evidence of record both individually and cumulatively on the issue of exceptional and extremely unusual hardship. The applicant requests that his TPS application be reconsidered and granted.

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 he meets the above requirements. Applicants must submit all documentation required in the instructions or requested by CIS. 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

At the time the applicant filed his TPS application, he submitted:

- Copies of his old and current [REDACTED] passports which were issued on June 27, 2003, and March 31, 2008. The old passport reflects that the applicant was issued a B-2 multiple entry nonimmigrant visa at the American Embassy in [REDACTED] on September 19, 2007. The applicant entered the United States as a visitor on July 16, 2009, October 13, 2009, and January 30, 2010. The passport also reflects that the applicant was admitted to the [REDACTED] on April 21, 2008, and July 19, 2009.
- A photocopied letter dated February 1, 2010, from [REDACTED] who indicated that since June 2009, he has rented an apartment at [REDACTED] [REDACTED] to the applicant.

U.S. Citizenship and Immigration Services records also reflect that the applicant: 1) arrived April 17, 2008 and departed April 21, 2008; 2) arrived November 2, 2008 and departed November 30, 2008; 3) arrived July 16, 2009 and departed July 19, 2009; and 4) arrived on October 13, 2009 and departed October 30, 2009.

On June 3, 2010, a notice was issued which advised the applicant that evidence in the record indicates that he had residence in the [REDACTED] and he had traveled on a visitor's visa between the [REDACTED] and the United States on several occasions prior to his last arrival. The applicant was requested to provide his addresses for three years prior to his entry into the United States. The applicant was informed that if he had resided in another country other than [REDACTED] prior to entering the United States, he was to provide an explanation of his immigration status in that country; whether he had lawful permission to be in that country; whether his permission was temporary or permanent; his reasons for being in that country; the reason for leaving; whether he was a refugee from another country; whether he had the same privileges provided to other persons who lived permanently in the country; and reasons why he did not consider himself to have been firmly resettled in the country other than [REDACTED] before entering the United States.

The applicant, in response, asserted that he left [REDACTED] on September 7, 2004, as he was experiencing political problems and arrived in the [REDACTED] to seek legal status. The applicant asserted that he was only granted temporary status for a year by the [REDACTED] government and he had to return to the government to renew his permit. The applicant asserted that on January 10, 2010, he went to the [REDACTED] government in order to renew his permit, but the permit was denied by the [REDACTED] government on January 25, 2010. The applicant asserts that he was given two weeks to depart the [REDACTED]. The applicant submitted:

- Additional copies of his passports, which reflect that he: 1) was admitted to the [REDACTED] on September 7, 2004, December 29, 2004, November 25, 2007, November 30, 2008, and October 30, 2009; 2) was admitted to the United States on

November 20, 2008.; 3) was admitted into [REDACTED] on December 22, 2004; and 4) departed [REDACTED] on September 7, 2004 and December 29, 2004.

- A copy of a renewal Permit to Engage in Gainful Occupation issued by the Commonwealth of [REDACTED] on August 18, 2009. The work permit, which was valid from February 10, 2009 through February 10, 2010, authorized the applicant to enter and remain in the country for the purpose of his employment at [REDACTED]

Based on the foregoing, the director concluded that the applicant had been firmly resettled in the [REDACTED] and, therefore, he was ineligible for TPS under section 244 of the Act. The director denied the application on July 2, 2010.

Although the applicant presented no evidence to support his assertion that the [REDACTED] government denied his request for renewal of his work permit, the fact that the permit was good for only a year and authorized the applicant to enter and remain in the [REDACTED] for the sole purpose of employment at [REDACTED] 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). There are significant discrepancies between the documents submitted to establish residence and physical presence in the United States, the period of time the applicant engaged in employment in the [REDACTED] and his entries into and departures from the United States. In addition, the passport number on page one issued in 2003 does not correspond with the passport number listed on the biographic detail page.

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.