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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

**PUBLIC COPY**



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FILE:



Office:



Date:

SEP 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 \$585. 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 on appeal. The appeal will be dismissed.

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 states that he never had permanent residence in the [REDACTED]. The applicant asserts that his stay in that country was based on a temporary work permit, which was renewed every year.

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).

At the time the applicant filed his TPS application, he submitted a copy of his [REDACTED] passport, which was issued on July 13, 2001, and a Form I-94, Arrival-Departure Record, which reflects that the applicant entered the United States with a nonimmigrant visitor visa on November 11, 2005.

On April 30 2010, and June 8, 2010, a notice was issued requesting the applicant 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 he permission was temporary or permanent; the 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 Haiti before entering the United States.

The applicant, in response, submitted:

- A copy of his [REDACTED] driver's license issued on April 24, 1997, listing an address in [REDACTED]
- A letter dated August 25, 2004, from a representative of [REDACTED] in [REDACTED] who indicated that the applicant has been employed by [REDACTED] for eight years.
- A copy of his [REDACTED] passport reflecting that the applicant: 1) had entered [REDACTED] and the [REDACTED] during 2002; 2) was issued a visa in 2002 to enter the [REDACTED] and was authorized to remain in the country to continue his employment at [REDACTED] until September 4, 2003; 3) had entered the United States on August 28, 2002, as a transit without visa (TWOV); 4) in 2003, entered, [REDACTED] 5) was issued a visa in May 2003 to enter the [REDACTED] and was authorized to remain in the country to continue his employment at [REDACTED] until September 4, 2004; and 5) entered the United States with a non-immigrant visitor visa on October 11, 2003.<sup>1</sup>

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. Accordingly, the director denied the application on July 6, 2010.

U.S. Citizenship and Immigration Services (USCIS) records reflect that the applicant had also entered the United States on November 8, 2005, with a business visa (B-1), and on December 22, 2003, and August 9, 2005, with a visitor visa (B-2).<sup>2</sup> On each arrival, including his October 11,

<sup>1</sup> The applicant entered [REDACTED]

<sup>2</sup> The applicant entered [REDACTED]

2003 and November 11, 2005 entries, the applicant listed his country of residence as the

On appeal, the applicant asserts that during his employment in the his boss gave him the privilege on several occasions to travel and visit the United States and The applicant asserts that the company was subsequently sold and his boss had quit and "I was in a situation where I have to move back to When I get there, after accessing the situation, and since my US visas was still valid I came here and stay until today." The applicant submits an additional copy of his passport, which reflects that he was issued a visa in April 2004 to enter the and was authorized to remain in the country to continue his employment at until September 4, 2005.

The applicant's assertions on appeal, however, have no merit. The applicant has not explained why upon his arrival in the United States on November 11, 2005, he did not list as his country of residence instead of the In addition, no evidence has been provided to support his assertions that because had been sold he had been terminated from his employment, and that he had returned to prior to his arrival on November 11, 2005.

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, 591-92 (BIA 1988).

The record indicates that the applicant had firmly resettled in the within the meaning of section 208(b)(2)(A)(vi) of the Act and 8 C.F.R. § 208.15, during his nine-year stay in that country from 1996 to 2005. The applicant has not demonstrated that the conditions of his stay in the met those described in 8 C.F.R. § 208.15(a) and (b), as required to establish that he was not permanently resettled in that country prior to his arrival in the United States. 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 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.