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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

M<sub>1</sub>

[REDACTED]

FILE:

[REDACTED]

OFFICE:

[REDACTED]

DATE: SEP 30 2010

IN RE:

Applicant:

[REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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,

Perty 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 appeal will be dismissed.

The applicant is applying for 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 after determining that the applicant was ineligible for TPS because she had firmly resettled in another country prior to her arrival in the United States.

On appeal, counsel asserts that the applicant has no legal authority to return to [REDACTED] and due to the earthquake in [REDACTED] she cannot return there either. Counsel asserts, "[r]e-visiting the circumstances surrounding the time that she [the applicant] spent in [REDACTED] and the qualifications for TPS," her application should be reexamined 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 Immigration and Nationality Act (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.

On September 18, 1995, the applicant attempted to enter the United States with a fraudulent [REDACTED] passport. The Narrative Sworn Statement, taken on the same day, reflects that the applicant

indicated that prior to her arrival into the United States, she was residing in [REDACTED] from 1984 through 1994 with her aunt,<sup>1</sup> and with a friend through 1995.

On August 2, 1996, the applicant filed a Form I-589, Application for Asylum and Withholding of Deportation. The applicant indicated on the Form I-589 to have a child who was born in [REDACTED] on January 8, 1995. On October 22, 1996, a removal hearing was held and the applicant's asylum application was denied and she was ordered removed from the United States. The applicant testified during her removal proceedings that she resided in [REDACTED] for 11 years prior to her arrival into the United States; she never returned to [REDACTED] she attended school in [REDACTED] but did not obtain permanent residency; she departed [REDACTED] to [REDACTED] to have her child and returned to [REDACTED] without any problems. The applicant appealed the decision of the immigration judge to the Board of Immigration Appeals (BIA). On August 1, 1997, the BIA dismissed the appeal.

On appeal, the applicant asserts, in pertinent part:

I was a child when I was brought illegally to [REDACTED] by my Uncle on a fishing boat after my Aunt had died.

In 1994, I had become pregnant and I had nobody to help me. I went to [REDACTED] to have my baby. My boyfriend at the time, who was the baby's father returned to [REDACTED] with our baby and then I returned illegally by fishing boat to [REDACTED]

I was never offered permanent residence or citizenship in [REDACTED]

I have no passport from [REDACTED] or from [REDACTED] or the [REDACTED]

I have no way to return to [REDACTED] as I have no legal residence there nor can I return to [REDACTED] because of the devastation from the earthquake there.

The applicant asserts that she has contacted the [REDACTED] Consulate in [REDACTED] to find out whether there is any documentation that would permit her to return. The applicant asserts, "[t]hey said that as I was there illegally, that they have no documentation and they could not even provide me with a letter to this effect." The applicant, however, has not provided any credible evidence to support her assertion. 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)).

The applicant's statements made on appeal undermine her credibility as they contradict her testimony of October 22, 1996. The applicant claims that her uncle took her to [REDACTED] after her aunt had passed away. However, at the time of her removal hearing in 1996, the applicant testified

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<sup>1</sup> The applicant indicated that her aunt returned to [REDACTED] in March 1994.

that she resided with her aunt in [REDACTED] in 1984, and that she accompanied her to [REDACTED]. The applicant also states that she went to [REDACTED] to have her baby because she had no one to help her and that she illegally reentered [REDACTED] by boat. At her removal hearing in 1996, the applicant testified that due to complications her doctor sent her to [REDACTED] to have her child and that she had no problems reentering [REDACTED] as she reentered "with the same authorization that was granted to me by the doctor." The applicant testified that her child's father paid for the airline ticket and supported her by paying her rent and food.

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).

Upon review of the applicant's testimonies taken on September 18, 1995, and October 22, 1996, the AAO finds that the 11-year duration of the applicant's residence in [REDACTED] and her ability to travel to and from [REDACTED] is sufficient to support a find that the applicant had firmly resettled in that country. Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

The burden of proof is upon the applicant to establish that she meets the above requirements. The statements of the applicant provided on appeal do not overcome the evidence in the record. 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.