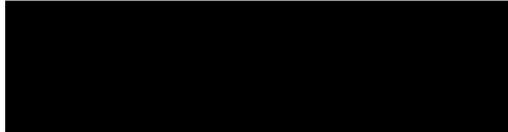


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Avenue, NW., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



PUBLIC COPY



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FILE: [Redacted] Office CALIFORNIA SERVICE CENTER

Date:

JAN 06 2011

IN RE: Applicant: [Redacted]

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

IN 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 \$630 fee. 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. The application is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and 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 it was determined that the applicant was ineligible for TPS because he ordered, incited, assisted or otherwise participated in the persecution of others.

On appeal, the applicant disputes the director's findings. The applicant asserts that his asylum application was filled out with the assistance of a fellow countryman. The applicant asserts that this individual included erroneous information on the application. The applicant asserts that he never persecuted anyone in Haiti or anywhere else.

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 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.

Section 244(c)(2)(B)(ii) of the Act provides that an alien shall not be eligible for TPS under this section if the Secretary finds that the alien is described in section 208(b)(2)(A) of the Act.

Section 208(b)(2)(A)(i) of the Act states, in pertinent part:

(A) In general – Paragraph (1) shall not apply to an alien if the Attorney General determines that that – (i) the alien ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

At the time his Form I-589, Application for Asylum and Withholding of Removal was filed, the applicant provided a sworn affidavit indicating that he was an attaché working with a “Chef de Section” in southern Haiti. His jobs consisted of watching the movements of Aristide supporters and reporting to the Chef de Section. The applicant asserted, “[a]s a member of the Attaches I helped in the repression and arrests of many Aristide supporters in my region.”

The applicant testified to an Asylum Officer on July 14, 1998, that his assignments while working for a Chef de Section (section chief) in Port-Au-Prince in 1994 included arresting people and seizing animals from individuals. The applicant testified that he would arrest individuals who were thieves and/ or were disturbing the peace by destroying properties. The applicant testified that he did not wear a uniform, but he had a baton, and never arrested anyone for being an Aristide party member or supporter. The applicant testified that the individuals who were arrested were taken to the home of the section chief and would either pay the section chief or were sent to jail. The applicant testified that he worked for the section chief for five or six months in 1994 and was in his employ because the section chief paid him money.

The applicant could not provide an explanation when asked why he indicated on his Form I-589 that he had watched the movements of Aristide supporters and as an attaché, he helped in the repression and arrests of many Aristide supporters in his region. The applicant only indicated that he was put there to keep an eye on individuals to be arrested.

The director, in denying the application, determined that based on the above details, the applicant had ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

The persecutor bar applies even if the applicant did not personally commit the persecutory act, so long as the applicant ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. No evidence was provided by the applicant that could establish that he did not persecute or assist in the persecution of others. Therefore, the director's decision to deny the TPS application is 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.