

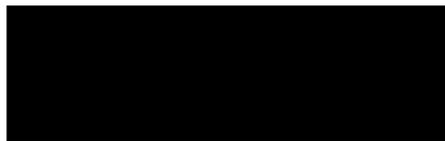
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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



U.S. Citizenship
and Immigration
Services



M₁

DATE: Office: CALIFORNIA SERVICE CENTER

FILE: 

JUL 28 2011

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 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,


for 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.

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.

The director denied the application because the applicant failed to establish she had: 1) continuously resided in the United States since January 12, 2010; and 2) been continuously physically present in the United States since January 21, 2010.

On appeal, the applicant submits additional documents to establish her continuous residence and continuous physical presence in the United States during the requisite periods.

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 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:

- (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.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

On January 21, 2010, the Secretary designated Haiti as a country eligible for TPS. This designation allowed nationals of Haiti who have continuously resided in the United States since

January 12, 2010, and who have been continuously physically present in the United States since January 21 2010, to apply for TPS.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 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 or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

In response to a notice dated February 17, 2011, which requested that the applicant submit evidence establishing her continuous residence since January 12, 2010 and continuous physical presence since January 21, 2010, in the United States, the applicant provided the following:

- An Application for Vehicle/Vessel Certificate to Title and a Florida vehicle registration issued on December 14, 2010.
- A vehicle insurance policy from AGIC Inc., for coverage from December 14, 2010 through June 14, 2011.
- A statement from a medical doctor, [REDACTED] who indicated that the applicant was seen on March 11, 2011.
- A document dated February 1, 2011 from Jackson Hewitt.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on April 12, 2011.

On appeal, the applicant submits her report cards for the eleventh and twelfth grades at Jones High School in Orange County, Florida. The documents reflect that the applicant attended the 2008-2009 and 2009-2010 grading semesters. The applicant also submitted a lease agreement entered into on April 27, 2010.

The applicant, on appeal, has submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during requisite periods. She has, thereby, established that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision will be withdrawn and the application will be approved.

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.