

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



M,

Date: FILE: [REDACTED]  
**JUN 08 2011**

Office: NEBRASKA SERVICE CENTER  
[REDACTED]

IN RE: Applicant: [REDACTED]

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

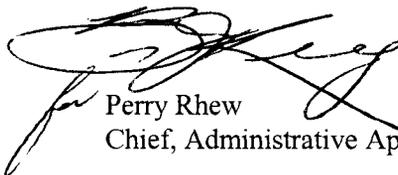
ON BEHALF OF APPLICANT:  
[REDACTED]

**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 Nebraska 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 Nebraska Service Center 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, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action.

The applicant, who was born in Haiti and is a citizen of Canada, 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 Canada prior to arriving in the United States.

On appeal, counsel argues that the director's decision is erroneous as it is in direct contradiction with the concept of firm resettlement as defined by statute and case law. Counsel asserts that while the applicant has claimed Canadian citizenship since 1993, the applicant "has neither lived in Canada, nor has Canada ever served as her place of foreign residence."

The record contains the applicant's Canadian passports issued on August 30, 1993, January 26, 2004, and February 24, 2010. The applicant's initial passport indicates that it was issued in Port-au-Prince, Haiti and contains an exit stamp from Haiti on September 5, 1993, and an entry stamp into the United States on the same date.

At the time she filed her TPS application, the applicant indicated that her father was a naturalized Canadian citizen and she obtained her Canadian citizenship as a child through him.

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 fact that the applicant obtained her Canadian citizenship through her father does not meet the definition of "firm resettlement." There is no evidence support a finding that prior to arrival in the United States the applicant had *entered into* Canada or another country and was offered the permanent resident status, citizenship, or some other type of permanent resettlement. 8 C.F.R. § 208.15. Therefore, the decision of the director will be withdrawn

The country of Canada is not a designated foreign state under section 244(b) of the Act. Therefore, the issue of the applicant's nationality at the time she entered the United States must be addressed.

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.