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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

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Date: Office: NEBRASKA SERVICE CENTER

FILE [REDACTED]

MAY 12 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 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, California Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action.

The applicant claims to be a dual citizen of France and 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 had firmly resettled in another country prior to arriving in the United States.

On appeal, the applicant asserts that he entered the United States in 2006 with an F-1 visa, and has continuously resided in the United States since that time. The applicant asserts he possesses both Haitian and French citizenship, and that his only residence outside of the United States has been in Haiti. The applicant asserts, in pertinent part:

I became in possession of my French passport because at the time it was easier to travel on a French passport. The fact that I entered the United States on my French passport does not mean that I denied my Haitian origin. I just use one of my two nationalities I'm entitled to. My first French passport was issued in Haiti, and the latest one was renewed in the US. Because I'm of Haitian descent and because I was born on Haitian territory with a Haitian father I'm considered by the Haitian government as a Haitian citizen, since I've never renounced to my Haitian origin.

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.

At the time the applicant filed his TPS application, he submitted copies of: 1) his and his father's Haitian birth certificates with English translations; 2) the biographical page of his current French passport issued April 21, 2008, at the French General Consulate in Los Angeles, California; 3) his Haitian driver's license issued on May 16, 2005; 4) his Haitian identification card issued on May 17, 2005; 5) an employment authorization card (C3B) valid from July 1, 2009 through June 30, 2010; 6) a liability car insurance document valid from October 21, 2009 through April 21, 2010; and 7) his Form I-94, Arrival-Departure Record, which reflected he was admitted into the United States on September 11, 2006, with an F-1 visa.

The director, in denying the application, on July 25, 2010, noted that the applicant had indicated on his TPS application to have dual citizenship in France and Haiti. The applicant was advised that Haiti did not recognize dual citizenship.¹ The director determined that prior to the applicant's arrival in the United States he had firmly resettled in France and, therefore, he was ineligible for TPS pursuant to section 244(c)(2)(B)(ii) of the Act.

¹ See Title II, Article 15 of the 1987 Haitian Constitution.

The director's finding, however, is not supported by the record. There is no evidence supporting a finding that prior to arrival in the United States the applicant had *entered into* France or another country and was offered permanent resident status, citizenship, or some other type of permanent resettlement. 8 C.F.R. § 208.15. It appears that the applicant obtained his French citizenship through his mother who, the applicant claims, is a French citizen; obtaining citizenship through a parent does not meet the definition of "firm resettlement." Therefore, the director's decision on this issue will be withdrawn.

Nevertheless, the applicant has not demonstrated that his "nationality" is that of a TPS-designated country as described in *Chee Kin Jang v. Reno*, 113 F. 3d 1074 (9th Cir. 1997).² The country of France is not a designated foreign state under section 244(b) of the Act. Therefore, the issue of the applicant's nationality at the time he entered the United States must be addressed.

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.

² The Court states that an alien is bound by the nationality claimed or established at the time of entry for the duration of his or her stay in the United States.