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

[redacted]

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DATE: DEC 0 4 2012 Office: NEBRASKA SERVICE CENTER FILE: [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: 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 $630. 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.

Ron M. Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 withdrew the application because the applicant failed to establish she had: 1) continuously resided in the United States since January 12, 2010; 2) been continuously physically present in the United States since January 21, 2010; and is inadmissible under 212(a)(6)(C)(i) of the Act.

On appeal, the applicant requests that the director reconsider her case as she has met the continuous residence and continuous physical presence requirements. In support of her appeal, the applicant submits additional documentation including a copy of an undated church letter attesting to her presence and residence in the United States since March 2010 and a copy of a church membership card in a foreign language with no accompanying English translation.[1]

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

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; and

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[1] 8 CFR section 103.2(b)(3) provides that any document containing foreign language submitted to United States Citizenship and Immigration Services (USCIS) shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

(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.

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.

Persons applying for TPS offered to Haitians must demonstrate continuous residence in the United States since January 12, 2010, and continuous physical presence in the United States since January 21, 2010.

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 a statement dated October 5, 2010, the applicant stated that she entered the United States without inspection on January 8, 2012 through St. Thomas, U.S. VI. The applicant does not submit any documentation in support of her claimed entry and she does not submit any evidence in support of her TPS application other than the Form I-821, Application for Temporary Protected Status.

On February 24, 2011, the applicant was requested to submit evidence establishing her continuous residence in the United States since January 12, 2010 and her continuous physical presence in the United States since January 21, 2010, to the date of filing the application. The applicant was informed that if she had a brief, casual, and innocent absence from the United States during this period, or a brief temporary trip abroad required by emergency or extenuating circumstances outside her control, she was to submit evidence to support the absence.

The applicant, in response, submitted a statement dated March 22, 2011 from Bishop who identified himself as the Pastor and District Supervisor of The in St. Thomas, U.S. Virgin Islands. Pastor stated that the applicant has been attending the church since January 10, 2010. The applicant also submitted a copy of a church membership card for 2009-2010.

The director in withdrawing the TPS application on June 15, 2012, determined that the applicant had failed to establish eligibility for TPS because she submitted a fraudulent document as evidence of her continuous residence and continuous physical presence in the United States during the requisite period. Specifically, the director determined that the church membership card the applicant submitted may have been altered. The director found that the evidence of record did not reflect that the applicant was continuously residing in the United States from January 12, 2010, and that she had been continuously physically present in the United States from January 21, 2010. The director also found that the applicant may be inadmissible to the United States because she sought to procure an immigration benefit through fraud or willful misrepresentation of a material fact in violation of section 212(a)(6)(C)(i) of the Act.

On appeal, the applicant submitted a statement from Pastor . stated that the applicant has been a member of the church since March 2010.

The church statements listed above do not comport with the regulatory requirements of 8 C.F.R. § 245a.2(d)(3)(v), which specifies that attestations by religious and related organizations (A) identify the applicant by name, (B) be signed by an official (whose title is shown), (C) show inclusive dates of membership, (D) state the address where the applicant resided during the membership period, (E) include the organization seal impressed on the letter or the letterhead of the organization, (F) establish how the author knows the applicant, and (G) establish the origin of the information about the applicant. While the statements identified the applicant by name, they do not indicate the applicant's address during the period she has been associated with the church, and do not indicate how and when the church officials who authored the statements met the applicant. Since the statements do not comply with sub-parts (D), and (F) of 8 C.F.R. § 245a.2(d)(3)(v), the AAO finds that the statements have little probative value. They are not

persuasive evidence of the applicant's continuous residence and continuous physical presence in the United States during the requisite periods.

Additionally, the statement from is inconsistent with the statement from . In his statement, indicated that the applicant has been associated with the church since January 10, 2010, but the statement from indicated that the applicant has been associated with the church since March 2010. 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. Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I& N Dec. 582, 591-92 (BIA 1988).

The applicant has not submitted any credible evidence to establish that she has continuously resided in the United States since January 12, 2010 and that she has been continuously physically present in the United States since January 21, 2010. Accordingly, the applicant has failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). The AAO is bound by the clear language of the statute and lacks the authority to change the statute. Consequently, the director's decision to withdraw TPS on these grounds will be affirmed.

Finally, the applicant has not addressed the issue of her inadmissibility into the United States. The applicant has not submitted a Form I-601, Application for Waiver of Grounds of Inadmissibility, which is required to waive her inadmissibility to the United States pursuant to section 212(a)(6)(C)(i) of the Act as an alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act.

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.