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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



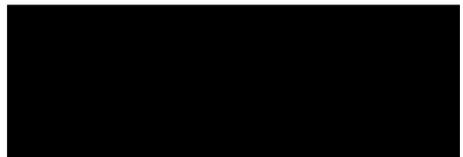
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DATE: JUN 27 2012 Office: CALIFORNIA SERVICE CENTER FILE: [Redacted]

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:

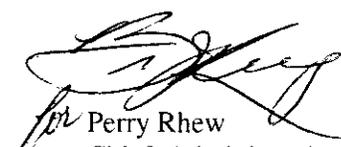


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
for Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted. The order dismissing the appeal will be affirmed.

It is noted that counsel incorrectly indicated on the Form I-290B, Notice of Appeal or Motion, that counsel was filing an appeal from the AAO's decision of November 26, 2010. As the AAO has already issued a decision for the appeal, the current Form I-290B will be treated as a motion to reopen.

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.

On June 22, 2010, the director denied the application because she found that the applicant had failed to submit requested court documentation relating to his criminal record. The AAO, upon a *de novo* review, determined that the applicant was ineligible for TPS due to his felony convictions and because of his failure to establish continuous residence since January 12, 2010 and continuous physical presence since January 21, 2010 in the United States. The AAO also found the applicant inadmissible under section 212(a)(A)(i)(II) of the Act due to his drug-related convictions.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, counsel asserts that the applicant had used his brother's name at the time of his September 15, 2002 entry into the United States. Counsel states that the applicant has never utilized the brother's name since his entry and that the person arrested, incarcerated and subsequently removed from the United States in 2006 was in fact the applicant's brother, "the true [REDACTED]

After a careful review of the USCIS records, the AAO has determined that the applicant, [REDACTED], and [REDACTED] are separate individuals. The AAO has also determined that the arrest and subsequent conviction relating to the importation and distribution of cocaine and the removal from the United States on September 14, 2006 does not relate to the applicant. Accordingly, the AAO withdraws its findings regarding the applicant's ineligibility for TPS due to the felony convictions and his inadmissibility under section 212(a)(2)(A)(i)(II) of the Act due to the drug-related convictions.

On motion, counsel asserts that the applicant has a difficult time providing an abundance of documents to establish his presence in the United States. Counsel, in an attempt to establish continuous residence since January 12, 2010 and continuous physical presence since January 21, 2010, submits copies of documents that were previously submitted. Counsel submits:

Counsel submits:

- Copies of Community School North Student Activity Cards for 2009-2010 and 2010-2011.
- A letter dated July 1, 2011, from pastor, [REDACTED] and church clerk, [REDACTED] of [REDACTED] who indicated that the applicant is a faithful member and “joined the church years ago.”
- An affidavit from the applicant’s brother, [REDACTED] of [REDACTED], who indicated that the applicant entered the United States on September 15, 2002 and has been residing here since that time. The affiant indicated that the applicant does not have a lot of proof as he was not able to get a work permit and a social security card. The affiant stated that the applicant “has been under my support.”

The student activity cards from [REDACTED] have little probative value as they are not corroborated by any supporting evidence such as transcripts and/or attendance records.

The letter from [REDACTED] and [REDACTED] also has little probative value or evidentiary weight as it does not meet the requirements of 8 C.F.R. § 244.9(a)(2)(v). Most importantly, the letter does not establish the origin of the information attested to.

[REDACTED] provided very few details about the applicant’s life in the United States such as his residence(s) or work, and the nature and extent of their interactions. The affiant does not state how frequently he had contact with the applicant during the requisite periods. The affidavit does not provide concrete information, specific enough to the applicant and generated by the asserted association with him, which would reflect and corroborate the extent of their association, and demonstrate that there was a sufficient basis or reliable knowledge about the applicant’s residence in the United States during the requisite periods. To be considered probative, an affiant’s affidavit must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. The affidavit must contain sufficient detail, generated by the asserted contact with the applicant, to establish how the relationship was sustained, and that the affiant does, by virtue of that relationship, have knowledge of the facts asserted. The affidavit from [REDACTED] does not provide sufficient detail to establish that he had an ongoing relationship with the applicant that would permit him to know of the applicant’s whereabouts and activities throughout the requisite periods.

The absence of sufficiently detailed documentation to corroborate the applicant’s claim of continuous residence and continuous physical presence during the requisite periods seriously detracts from the credibility of his claim. The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met.

since the applicant has not provided sufficient credible evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed.

**ORDER:** The previous findings of the AAO regarding the criminality of the applicant shall be withdrawn. The AAO's findings relating to the applicant's continuous residence and continuous physical presence will be affirmed and the decision of November 26, 2011, will not be disturbed.