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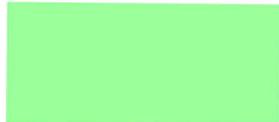


U.S. Citizenship  
and Immigration  
Services

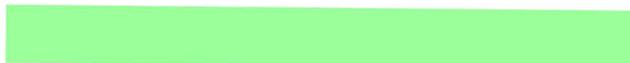


DATE: DEC 20 2013

Office: CALIFORNIA SERVICE CENTER



IN RE: Applicant:



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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
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 consideration and action.

The applicant, who was born in the Bahamas, 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 August 5, 2013, the director denied the application because the applicant failed to submit requested information relating to his residence in the Bahamas.

On appeal, the applicant, through his guardian, asserts that he was born in [REDACTED] Bahamas to Haitian parents and that his only address was in the Bahamas at [REDACTED].

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.

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 burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must submit all documentation 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The record contains a copy of the biographical page of the applicant's U.S. visa issued on October 17, 2006, in [REDACTED], which lists the applicant's nationality as Haitian.

The record also contains a copy of a Certificate of Identity dated April 3, 2008, that was issued by the Bahamian Minister of Foreign Affairs.<sup>1</sup> The certificate indicates that it is valid for traveling to all countries and reentry into the Bahamas and it was issued for the sole purpose of providing the applicant with identity papers in lieu of a national passport. The certificate also indicates that the applicant was born on October 17, 2006, in [REDACTED] and that his nationality is Haitian.

It is noted that Bahamian-born individuals of foreign heritage do not automatically acquire citizenship.<sup>2</sup>

The fact that the applicant was *born* in the Bahamas does not meet the definition of "firm resettlement." There is no evidence to support a finding that prior to arrival in the United States the applicant had entered into another country with or while in that country was offered permanent resident status, citizenship, or some other type of permanent resettlement. 8 C.F.R. § 208.15.

The applicant has overcome the sole basis for the denial of the application. Therefore, the decision of the director will be withdrawn.

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.

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<sup>1</sup> Certificates of Identity are issued to individuals who were born in the Bahamas after July 10, 1973 to non-Bahamian parents. See <http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/MOFA--Passport+Services--Requirements+and+Supporting+D...>

<sup>2</sup> See The Constitution of the Commonwealth of the Bahamas.