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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

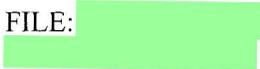


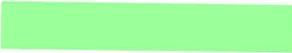
U.S. Citizenship  
and Immigration  
Services



DATE: DEC 23 2013

Office: CALIFORNIA SERVICE CENTER

FILE: 

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

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

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** There-registration application was denied by the Director, California Service Center, and 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 denied the re-registration application because the applicant failed to establish she had continuously resided in the United States since January 12, 2011. The director also denied the application because the applicant failed to submit requested information relating to her residence and immigration status in Guatemala.

On appeal, the applicant asserts that she was temporarily residing in Guatemala and could not return to her native country, Haiti, due to the earthquake. The applicant states she has been residing in the United States since July 2011 "because my legal status was expired in Guatemala." The applicant requests that her application be reconsidered and approved.

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.

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.

On January 21, 2010, the Secretary designated Haiti as a country eligible for TPS. This designation allowed nationals of Haiti who have continuously resided in the United States since January 12, 2010, and who have been continuously physically present in the United States since January 21, 2010, to apply for TPS. On May 19, 2011, the Secretary re-designated Haiti for TPS

eligibility which became effective on July 23, 2011. This re-designation allowed nationals of Haiti who have continuously resided in the United States since January 12, 2011, and who have been continuously physically present in the United States since July 23, 2011, to apply for TPS. The initial registration period for the re-designation began on May 19, 2011, and ended on November 15, 2011. The designation of TPS for Haiti has been extended several times, with the latest extension valid until July 22, 2014, upon the applicant's re-registration during the requisite time period.

An alien shall not be eligible for TPS if the 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 first issue to be addressed is whether the applicant has established her continuous residence in the United States since January 12, 2011.

Along with her TPS application the applicant submitted a copy of the biographical page of her Haitian passport and birth certificate with English translation. The applicant also submitted a copy of her Form I-94, Arrival-Departure Record, which reflected that she was admitted into the United States on July 7, 2011, as a nonimmigrant visitor.

USCIS records reflect that the applicant's U.S. visa was issued on February 22, 2011 in Guatemala City, Guatemala.

The applicant's statement on appeal has been considered. However, the applicant's arrival into the United States was subsequent to the eligibility period. Therefore, she cannot meet the criteria for continuous residence in the United States since January 12, 2011 as described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

The second issue to be addressed is the applicant's residence prior to entering the United States on July 7, 2011.

On March 14, 2013, the applicant was requested to provide her addresses for three years prior to her entry into the United States. The applicant was informed that if she had resided in another country other than Haiti prior to entering the United States, she was to provide an explanation of her immigration status in that country; whether she had lawful permission to be in that country; whether the permission was temporary or permanent; the reasons for being in that country; the reason for leaving; whether she was a refugee from another country; whether she had the same privileges provided to other persons who lived permanently in the country; and reasons why she did not consider herself to have been firmly resettled in the country other than Haiti before entering the United States.

The applicant was also requested to submit copies of all her passports showing entries and departures, records establishing citizenship of any other country than Haiti, and visas, residence cards or other immigration documents from any country other than the United States where she had resided.

The applicant, in response only provided a statement indicating that subsequent to the earthquake in Haiti, she and her family temporarily moved to Guatemala; that prior to entering the United States she had been residing in Haiti for three years and frequently visited Guatemala City (Guatemala); that she was a student in Guatemala and she departed Guatemala because her temporary legal status was about to expire; that she was informed that her temporary status would not be renewed and she could not return to Haiti; that she was not firmly resettled in Guatemala as she did not have the same privileges that legal residents had; and that she had not held any other citizenship status other than Haiti.

The applicant's statements are noted. The applicant, however, did not provide the requested copies of her passport showing entries and departures, visas, residence cards or other immigration documents from any country other than the United States where she had resided. Therefore, the

applicant has failed to establish any element of the exceptions in 8 C.F.R. § 208.15(a) and (b) above. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.