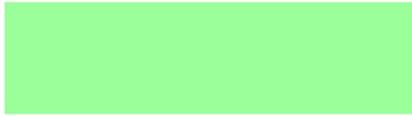


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAY 07 2013**

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. § 1254a

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 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,

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

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 determined that a prior order of removal had been reinstated and the applicant was not eligible to apply for any relief pursuant to section 241(a)(5) of the Act. The director, therefore, denied the application.

On appeal, the applicant states, in part, "I am entitled to seek a waiver from the Service for the grounds of inadmissibility, contained in the denial letter pertained to my case due to the devastation of my native country Haiti." The applicant submits a Form I-601, Application for Waiver of Grounds of Inadmissibility.

Section 241(a)(5) of the Act provides if the Attorney General, now the Secretary, Department of Homeland Security, finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, the alien is not eligible and may not apply for any relief under the Act, and the alien shall be removed under the prior order at any time after the reentry.

The record reflects that the applicant's Form I-589, Application for Asylum and Withholding of Removal, was filed on June 17, 1991. On July 31, 1991, exclusion proceedings were held and the Form I-589 was denied and the applicant was ordered excluded and deported from the United States. The applicant appealed the decision of the immigration judge (IJ) to the Board of Immigration Appeals (BIA). On October 23, 1991, the BIA dismissed the appeal. On February 15, 1992, the applicant was removed from the United States to Haiti. On January 15, 1998, the applicant entered the United States without inspection. On April 29, 1998, a Form I-862, Notice to Appear, was issued and served on the applicant on May 1, 1998. On July 15, 1999, a Form I-205, Warrant of Removal/Deportation, a Form I-294, Warning to Alien Ordered Removed or Deported, and a Form I-871, Notice of Intent/Decision to Reinstate Prior Order, were issued. On April 26, 2006, the applicant filed a request for withdrawal of order reinstating prior order of exclusion and a joint motion to reopen. On September 28, 2006, U.S. Immigration and Custom Enforcement declined the applicant's request to join in the motion to reopen.

Based on the above finding, the director determined that the applicant was not eligible to apply for any relief pursuant to section 241(a)(5) of the Act and, therefore, he was ineligible for TPS under section 244 of the Act. Accordingly, the director denied the application on March 5, 2012.

The applicant's statements on appeal have been considered. The AAO, however, is bound by the clear language of the statute and lacks the authority to change the statute. There is no waiver available, even for humanitarian reasons, due to the applicant's ineligibility pursuant to section

(b)(6)

Page 3

241(a)(5) of the Act. Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

ORDER: The appeal will be dismissed.