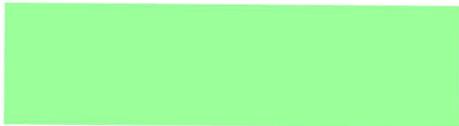




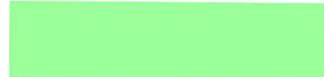
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JAN 22 2014

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 (AAO) 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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center. The applicant has appealed the denial of the re-registration application and the matter is now before the Administrative Appeals Office (AAO). 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 registration application because the applicant failed to establish she had: 1) continuously resided in the United States since January 12, 2011; and 2) been continuously physically present in the United States since July 23, 2011.

On appeal, the applicant requests that her application be reconsidered due to the conditions in her native country.

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 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.

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.

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).

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

USCIS records reflect that the applicant, as a nonimmigrant visitor, has entered and departed the United States on numerous occasions since 2007. Specifically, since the latter part of 2010 USCIS records reflect the following entries and departures:

<u>Departure date</u>	<u>Entry date</u>
December 5, 2010	April 1, 2011
June 17, 2011	October 30, 2011

On April 25, 2013, the applicant was advised that because she was not in the United States on January 12, 2011 and July 23, 2011 she could not establish continuous residence and continuous physical presence. The applicant was granted 30 days in which to submit any additional documentation or information to support her application. The applicant, in response, indicated that she was submitting evidence to establish her presence in the United States in 2010. The applicant submitted a copy of: 1) her Haitian passport reflecting six admission stamps (May 12, 2007, July 30, 2008, December 9, 2009, June 25, 2010, April 1, 2011 and October 30, 2011) into the United States; 2) her expired employment authorization card; 3) her daughter's Florida September 19, 2010 birth certificate; 4) a letter dated February 24, 2012 from [REDACTED] Florida indicating that the applicant was a patient from June 29, 2010 through November 5, 2010; 5) her approval notice that expired on January 22, 2013; and 6) a letter from [REDACTED] who indicated that the applicant has been attending its church since March 2010.

The director determined that the evidence submitted was not sufficient to establish residence and physical presence in the United States from December 5, 2010 to April 1, 2011 and from June 17, 2011 to October 30, 2011. The director determined that the letter from [REDACTED] had no supporting documents to contradict the applicant's absences from the United States and none of the remaining documents addressed the periods of absences in question. The director concluded that the applicant had failed to establish her eligibility for TPS and denied the application on June 4, 2013.

The applicant's last arrivals (April 4, 2011 and October 30, 2011) into the United States were subsequent to the eligibility period. The applicant's visits to the United States in 2010 and 2011 only serve to establish that she was present in the United States during the duration of her visits; they do not establish *continuous* residence or *continuous* physical presence in the United States. As previously noted, the applicant cannot meet the criteria for continuous residence and continuous physical presence as described in 8 C.F.R. § 244.2(b) and (c) as she was not in the United States on January 12, 2011 and July 23, 2011. Consequently, the director's decision to deny the application for TPS on these grounds 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.