



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: JUN 09 2014 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:
[REDACTED]

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.

Thank you,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The re-registration application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

On August 19, 2013, the director denied the re-registration application because the applicant failed to establish that she is a national of a foreign state designated by the Secretary, Department of Homeland Security (Secretary), and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

On appeal, counsel asserts that the Haitian constitution was amended to allow dual-citizenship and, therefore, the applicant is eligible for the benefit sought. Counsel indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.¹ To date, no additional correspondence has been presented by counsel or the applicant. Therefore, the record must be considered complete.

Pursuant to section 244(c) of the Act, an alien who is a national of a foreign state designated under subsection (b) of this section (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state) and who meets the requirements of subsection (c) of this section, may be granted temporary protected status (TPS) in the United States. Further, 8 C.F.R. § 244.2(a) provides that an alien who is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act, may, in the discretion of the director, be granted TPS. Section 101(a)(21) of the Act defines the term "national" to mean a person owing permanent allegiance to a state.

The applicant indicated on her TPS application to be a citizen of the Bahamas and Haiti. The record contains copies of the applicant's current and expired Bahamian passports and a Form I-94, Arrival-Departure Record, indicating that the applicant was admitted into the United States on February 22, 2000 as a non-immigrant visitor. The applicant claimed the Bahamas as her country of citizenship on the Form I-94.

The applicant was interviewed at the Oakland Park Field Office in Florida on May 21, 2013, and presented a valid and several expired Bahamian passports. The applicant was established by the interviewing officer to be a national of the Bahamas.

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

On appeal, counsel provides a copy of the biographical page of the applicant's Haitian passport that was issued on September 6, 2013, in Nassau, Bahamas.² Counsel also provides articles from the Chicago Tribune and Wikipedia regarding the new amendments to the Haitian constitution.

In the instance case, the applicant has provided independent objective evidence which meets the regulatory requirement as described in 8 C.F.R. § 244.9(a)(1) to establish that she is a national of a foreign state designated by the Secretary.

As the applicant has demonstrated that her "nationality" is that of a TPS-designated country, the director's decision to deny the re-registration application will be withdrawn. However, the validity period of the applicant's fingerprint check has expired.

Accordingly, the case will be returned for the purpose of sending the applicant a fingerprint notification form, and affording her the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

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 met this burden.

ORDER: The case is remanded for appropriate action consistent with the above.

² Pursuant to the Haitian constitutional amendments of June 19, 2012, the applicant is considered a Haitian citizen. See http://www.haiti-reference.com/histoire/constitutions/const_1987_amendee.php accessed on January 9, 2014.