



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 29 2015**

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. 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DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn and an application for re-registration was simultaneously denied by the Director, California Service Center. The applicant has appealed the decision and the matter is now before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a native and citizen of Haiti who was granted TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On April 29, 2014, the Director withdrew TPS and denied the re-registration application because it was determined that the applicant ordered, incited, assisted or otherwise participated in the persecution of others and was therefore ineligible for TPS benefits.

The Director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

On appeal, the applicant, through counsel, asserts that he never ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group or political opinion. The applicant also asserts that U.S. Citizenship and Immigration Services (USCIS) has not provided any evidence to show that the applicant is ineligible for TPS.

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 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.

Section 244(c)(2)(B)(ii) of the Act provides that an alien shall not be eligible for TPS under this section if the Secretary finds that the alien is described in section 208(b)(2)(A) of the Act.

Section 208(b)(2)(A)(i) of the Act states, in pertinent part:

- (A) In general -- Paragraph (1) shall not apply to an alien if the Attorney General determines that that -- (i) the alien ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

The record reflects that the applicant testified to a U.S. asylum officer on September 23, 1998, that he joined the [REDACTED] in June 1993 and was a member until September 1994. According to the officer's notes, the applicant claimed he was a detective investigating information for the organization. He stated that he never caused harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group, or political opinion or ordered or assisted in such acts. He indicated that, as a [REDACTED] member, he lacked the authority to harm or arrest people; however he did report "suspicious people" to headquarters personnel to "go after them."

On February 28, 2014, USCIS notified the applicant of its intent to withdraw the applicant's TPS and indicated that a failure to respond to several questions with supporting documentation may lead to a withdrawal of his TPS. The applicant, in response, provided an affidavit confirming his membership in the [REDACTED], indicating that he served from the beginning of 1996 through September 1996, and that he was stationed in [REDACTED] Haiti. According to his affidavit, he was a driver for the [REDACTED] but he did not have a rank and was not in charge of anyone. He also stated that he did not relay information or commands and that his supervisor was [REDACTED]. He asserted that he did not arrest or detain, or witness the arrest or detention, of any persons. The applicant also noted that he did not use violence or witness violence against others, nor did he order the use of violence against others. However, he conceded the [REDACTED] arrested and detained individuals and "supported violence against others." The applicant denied that he ordered, incited, assisted or participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group or political opinion.

The Director highlights the inconsistencies in the applicant's testimony to the asylum officer in 1998 and in his affidavit in 2014. Specifically, the applicant indicated he was a driver for the [REDACTED] in his affidavit, while he claimed he was a detective investigating information in his asylum testimony. The Director also states that the applicant indicates now that he joined the [REDACTED] in 1996, which differs from dates he provided during his 1998 testimony.

In addition, the Director notes that the applicant's supervisor, [REDACTED], is described as a human-rights abuser responsible for an estimated 4,000 to 5,000 deaths, and this number does not include the individuals he victimized. The Director concludes that the applicant provided support, either as a driver or investigator, to the [REDACTED] and to a supervisor responsible for violence on a massive scale. Accordingly, he found the applicant ineligible for TPS, and on April 29, 2014, denied the application.

On appeal, the applicant submits a certificate indicating that he has not had any criminal charges filed against him in Haiti and an attestation from a judge in Haiti indicating that the applicant has good moral character. However, he does not address the inconsistencies in his testimony concerning his actions as a member of the [REDACTED] working as either a driver or an investigator who reported suspicious individuals to headquarters to "go after them."

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 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 applicant has not met this burden.

While mere membership in an entity or organization that commits acts of persecution is not enough to apply the persecutor bar, the bar applies even if the applicant did not personally commit the persecutory act, so long as the applicant ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. Moreover, it is not necessary for the applicant to have specific knowledge of particular acts of persecution for the bar to apply, so long as the applicant is aware that his or her actions resulted in persecution. *Suzhen Meng v. Holder*, 770 F.3d 1071, 1075-76 (2d Cir. 2014) (noting that when “the occurrence of the persecution is undisputed, and there is such evidence of ‘culpable knowledge that the consequences of one’s actions would assist in acts of persecution’... ‘the evidence need not further show that the alleged persecutor had specific actual knowledge that his actions assisted in a particular act of persecution’”) (citations omitted). The applicant has not resolved inconsistencies in his testimony concerning his having assisted in the persecution of others. Consequently, the Director’s decision to deny the application for TPS will be affirmed.

The re-registration application will be denied and TPS will be withdrawn for the above stated reasons, with each considered as an independent and alternative basis for denial and withdrawal. 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.