



U.S. Citizenship
and Immigration
Services

(b)(6)



MAR 31 2015

DATE: OFFICE: CALIFORNIA SERVICE CENTER

FILE: A grey box redacting the file number.

IN RE: APPLICANT: A grey box redacting the name of the 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,

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

Ron Rosenberg
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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that on May 3, 2010, the applicant filed a TPS application during the initial registration period that was denied on December 15, 2010, because the applicant had failed to establish his Haitian nationality and his identity, and he also had provided no evidence of continuous residence and continuous physical presence. We rejected a subsequent appeal as untimely on June 9, 2011.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 7, 2011, as a new initial application for TPS. On August 23, 2012, the director denied the application because the applicant failed to establish his nationality, his identity, and his continuous physical presence.

On appeal, the applicant asserts that he has established his Haitian identity and nationality and the requisite continuous physical presence. The applicant submits a statement and additional evidence.

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; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:

- (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

On January 21, 2010, the Secretary's 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. The Secretary's May 2011 re-designation of Haiti for TPS eligibility 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. On March 3, 2014, the Secretary announced an extension of the TPS designation for Haiti until January 22, 2016, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).¹

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

¹ The record reflects that the applicant had filed an asylum application and has been in removal proceedings before an immigration judge. Therefore, the applicant is eligible for late registration as set forth in 8 C.F.R. § 244.2(f)(2)(ii).

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).

In her denial of the TPS application, the director concluded that based on the evidence of record, the applicant's identity and nationality could not be determined. The director noted that the applicant submitted evidence, initially and in response to a request for further evidence, to establish that he is [REDACTED] a national of Haiti. The applicant asserts that he entered the United States without inspection on January 24, 2007. In addition to his statements, the applicant has submitted evidence to demonstrate his identity and presence in the United States, including but not limited to the following:

- 1) A copy of an Employment Authorization Card, with the name [REDACTED];
- 2) A Social Security card for [REDACTED];
- 3) Pay stubs for [REDACTED];
- 4) U.S. tax forms from 2008 for [REDACTED];
- 5) A birth certificate for [REDACTED] indicating a delayed registration in 2004;
- 6) A copy of a temporary Florida identification card bearing the name [REDACTED]; and
- 7) Untranslated cards that appear to come from Haiti that also appear to have the applicant's photograph on them, with the name [REDACTED].

The director noted that U.S. government biometric records reflect that the applicant entered the United States on January 20, 2007, at the [REDACTED] International Airport, using the name of [REDACTED], born on [REDACTED] 1954; and the Department of State's visa-services office identified him, based on his visa application, as [REDACTED] born [REDACTED] 1954, with a previous entry into the United States on December 15, 2006. The director determined that the applicant had failed to establish his nationality and his identity as he had failed to provide an adequate explanation for the discrepancies concerning his identity and his travel as reflected in these records and the applicant's assertions. The director also determined that the applicant had failed to submit evidence to establish his continuous physical presence in the United States since July 23, 2011. For the forgoing reasons, the director denied the TPS application.

On appeal, the applicant reasserts that that the information he provided establishes his Haitian nationality and identity. He states that fraud is common in Haiti and that he unaware whether someone used his documents to enter the United States. He further asserts that he has been in the United States since his entry on January 24, 2007, and that he requested asylum in 2007.

The applicant's statement and evidence submitted with his appeal do not adequately address or overcome the records reflecting he has an identity that differs from the one he asserts in his TPS applications. An applicant's biometrics records, which include photographs and fingerprints submitted with visa and immigration applications, provide information about individuals' identities and travel histories, among other matters. Because these records, submitted by the applicant, reflect an identity that differs from the one the applicant asserts, considerable doubt is cast on the

applicant's claimed identity. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988). The applicant submits numerous documents bearing the name [REDACTED]. However, we find that the documentation provided and his statements are insufficient to overcome the discrepancies regarding his identity as [REDACTED] reflected in the record. Because we are not convinced that the applicant has established he is [REDACTED], we also cannot evaluate the evidence the applicant provides under that name to establish his continuous physical presence.

Consequently, we find that the applicant has not submitted sufficient evidence to establish his identity pursuant to 8 C.F.R. § 244.9(a), and to establish his continuous physical presence in the United States since July 23, 2011. The director's decision to deny the application for TPS will be affirmed.

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.