



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-A-A-

DATE: JAN. 21, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

APPLICATION: FORM I-821, APPLICATION FOR TEMPORARY PROTECTED STATUS

The Applicant, who identifies himself as a native and citizen of Somalia, seeks temporary protected status. *See* Immigration and Nationality Act (the Act) § 244, 8 U.S.C. § 1254(a). The Director, Vermont Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

On January 12, 2015, the Director denied the application because the Applicant did not establish his identity, or that he is a national of Somalia, and consequently, that he is eligible for the granting of temporary protected status (TPS) under section 244 of the Act, 8 U.S.C. § 1254(a).

On appeal, the Applicant asserts that he has presented adequate evidence to establish his identity and nationality. The Applicant addresses each statement that the Director found to be inconsistent. In support, the Applicant submits: affidavits from himself and two relatives; a copy of counsel's handwritten interview notes; maps and an article on Mogadishu; articles on Somali and Islamic customs related to birthdays; copies of the Applicant's Somali identification card and birth certificate; and articles on infrastructure in Mogadishu.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). The entire record was reviewed and considered in rendering this decision on appeal.

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 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.

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The regulation at 8 C.F.R. § 244.9 provides:

- (a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.
- (1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:
- (i) Passport;
 - (ii) Birth certificate accompanied by photo identification; and/or
 - (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The burden of proof is upon the Applicant to establish that the above requirements are met. 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. 8 C.F.R. § 244.9(b). To meet this burden of proof the Applicant must provide supporting documentary evidence of eligibility apart from the Applicant's own statements. *Id.*

The Applicant filed a Form I-589, Application for Asylum and for Withholding of Removal, on December 22, 1999. During his interview, the Applicant indicated that he fled Somalia in October 1998 and resided in [REDACTED] Kenya from November 1998 to October 1999. The Applicant indicated that he presented false identity documentation for admission into the United States on October 20, 1999. The Applicant submitted copies of a birth certificate dated in 1990, and an identification card dated in 1987, with English translations.

Along with the current TPS application filed July 18, 2012, the Applicant submitted an affidavit from an acquaintance who attested to the Applicant's place and date of birth in Somalia on [REDACTED]

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█ In a request for evidence (RFE) dated November 8, 2012, the Applicant was advised that the single affidavit was insufficient to establish his nationality and identity. The Applicant was afforded an opportunity to submit additional evidence to establish his nationality and identity. The Applicant was requested to submit copies of the passport and Form I-94, Arrival –Departure Record, used to enter the United States and to provide the names/aliases used since entering the United States.

The Applicant, in response, asserted that he did not have in his possession the visa or passport used to enter into the United States on October 20, 1999, and that he did not recall the name that was listed on the passport. The Applicant asserted that he has used his true name, █ and date of birth, █ since entering the United States. The Applicant stated that at the time of his asylum application was filed he submitted a birth certificate and an identity card, which he believed to be authentic. The Applicant submitted affidavits from two affiants who indicated they are relatives of the Applicant and who attested to the Applicant's Somali nationality. The first affiant stated that he was present at the time of the Applicant's birth in Somalia. The second affiant claimed to have first met the Applicant as a baby and that his family saw the Applicant and his family on a regular basis in Somalia. The Applicant also submitted a copy of his Minnesota identification card issued December 2012 and several documents relating to his immigration proceedings.

The Applicant was scheduled for an interview as the Director determined that the evidence submitted in response to the RFE was insufficient to establish his nationality and identity. On October 24, 2014, the Applicant was interviewed, and at the conclusion of the interview, it was determined that the Applicant had not credibly established his nationality and identity. The interviewing officer found the Applicant to be lacking in knowledge regarding his family history, his father's business, and where he claimed to have been born and resided in █ Somalia. It was also determined by the interviewing officer that the Applicant was evasive while discussing his activities and connections in █ Kenya. When asked how he obtained the birth certificate, the Applicant answered that in 2000 he had contacted some friends in Kenya who obtained the birth certificate from individuals residing in Somalia.

The Director determined that the authenticity of the birth certificate was questionable as it was unclear how it was created in 1990 and then obtained 10 years later as civil documents were not available because there is no official government to issue them. Based on the questionable birth certificate and the Applicant's inconsistent statements at the time of his interview, the Director determined that the Applicant's nationality and identity had not been established.

On appeal, the Applicant asserts that the interviewing officer erroneously did not call available witnesses to testify on his behalf. The Applicant, however, cites to no regulation that requires USCIS to interview individuals other than the Applicant in order to determine nationality and identity. In addition, the previously submitted affidavits from the two affiants were considered, the Applicant has not shown that their testimonies would have added substantially to the contents of their affidavits, nor would the individuals be able to rectify the Applicant's own inconsistent statements.

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The Applicant asserts that his birth certificate and his identification card were obtained from his family who were still residing in Somalia in 2000. The Applicant states that at his interview he never testified that the birth certificate had been issued in 2000. The Applicant states that both documents were issued prior to the civil war.

USCIS would not be able to confirm the validity of a familial relationship as there are no civil documents available in Somalia due to its civil war. There continues to be no recognized competent civil authority to issue civil documents since December 1990, and there are no circumstances under which immigrant visa applicants can reasonably be expected to recover original documents held by the former government of Somalia. *See* U.S. Department of State, Country Reciprocity Schedules, Somalia Reciprocity Schedule, <http://travel.state.gov/contents/visas/en/fees/reciprocity-by-country-SO.html>. Nevertheless, in this case, the translation of the Applicant's birth certificate does not contain any indication of when the birth certificate was issued; therefore, we cannot determine whether it was issued prior to December 1990.

Regarding his family history the Applicant asserts that in the Somali culture one does not celebrate birthdays; therefore his failure to state the birthdates of his parents is culturally appropriate. The Applicant asserts that had he been asked he would have provided ages of his parents. The Applicant states that he was not aware of his father's employment, but now has been informed by an uncle that his father bought and resold spare car parts for a living. The Applicant provides the name of his maternal father, and asserts that the failure to provide this name was due to confusion as his mother's name contains the first two names of her father.

The evidence of record, however, reflects that the Applicant was previously aware of his father's employment as he had indicated on his asylum application that the father's employment consisted of an auto spare-part business, and at his assessment interview conducted on January 21, 2000, he asserted that his father had a spare parts business and mechanics shop in [REDACTED]. In light of these testimonies, the affidavit from the Applicant's uncle, [REDACTED] asserting that he recently informed the Applicant of his father's employment cannot be considered as having significant probative value or evidentiary weight. Furthermore, the interviewing officer's notes of October 24, 2014, indicate that when asked, the Applicant did not know the name of his maternal grandfather.

The Applicant claims that he provided an appropriate level of detail regarding his Somali neighborhood as well as complete details of his life in [REDACTED] Kenya. The Applicant states that the map he drew of his neighborhood was accurate and approximate, and that other maps confirm the accuracy of his drawing. The Applicant contends that he presented complete answers regarding his life in Kenya, and while they may have seemed unusual, they did not represent evasiveness. The Applicant states that he lived hand to mouth with the help of a family friend and did not live in the camps in Kenya.

The evidence of record reflects that during removal proceedings, the Applicant asserted that while in Kenya, he did not support himself and only went outside twice. However, at his interview on October 24, 2014, the Applicant asserted that he sold produce in Kenya.

The Applicant has provided sufficient explanations for some of the issues raised by the Director, such as knowledge of his mother and father's birthdays. However, doubt cast on any aspect of the Applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. 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 (BIA 1988). The Applicant, on appeal, has not offered an adequate explanation for some of the inconsistent statements raised by the Director, nor does the record contain a complete translation of his birth certificate. Therefore, the Applicant has not credibly established his nationality and identity. Consequently, the Director's decision to deny the application for TPS on these grounds will be affirmed.

The Applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act for seeking admission into the United States through fraud or misrepresentation of a material fact. The evidence of record indicates that the Applicant has filed an appeal from the denial of his Form I-601, Application for Waiver of Grounds of Inadmissibility. A decision will be provided under separate cover.

In application proceedings, it is the Applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of S-A-A-*, ID# 13584 (AAO Jan. 21, 2016)