



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

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

MATTER OF H-K-S-

DATE: JULY 28, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Applicant, a native and citizen of Liberia, seeks Temporary Protected Status (TPS). *See* Immigration and Nationality Act (the Act) section 244, 8 U.S.C. § 1254a. TPS provides lawful status and protection from removal for foreign nationals of specifically designated countries, who register during designated periods, satisfy country-specific continuous residence and physical presence requirements, are admissible to the United States, are not firmly resettled in another country, and are not subject to certain criminal- and security-related bars.

The Director, Texas Service Center, denied the application. The Director concluded that the Applicant did not demonstrate that she met the continuous physical presence and residence requirements for TPS eligibility.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and claims that the Director erred in determining that attestation and affidavit evidence was insufficient to demonstrate that she met the continuous physical presence and residence requirements for TPS. She asserts that affidavit evidence submitted on appeal further demonstrates that she has been in the United States since August 2014, and that she is eligible for TPS.

Upon *de novo* review, we will dismiss the appeal. The evidence, including the additional evidence submitted on appeal, does not establish that the Applicant met the continuous U.S. physical presence and residence requirements for TPS.

**I. LAW**

The Applicant is seeking TPS. Section 244 of the Act and the related regulations in 8 C.F.R. § 244.2, provide the eligibility standards for TPS.

Section 244(b)(1) of the Act, 8 U.S.C. § 1254(b), provides that the Secretary, Department of Homeland Security, may designate foreign states for TPS based on country conditions. To qualify for TPS or maintain TPS status under section 244(c)(1)(A) of the Act, an applicant must demonstrate continuous physical presence and residence in the United States from specific country-dependent dates.

The burden of proof is upon the Applicant to establish that the above requirements are met. See 8 C.F.R. § 244.9(a)(3). Applicants shall submit all documentation as required in the instructions or requested by United States 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.*

## II. ANALYSIS

The issues in this case are whether the Applicant has established continuous physical presence in the United States since November 21, 2014, and continuous U.S. residence since November 20, 2014. The record reflects that the Applicant filed the Form I-821 in February 2015. With her application, the Applicant submitted a copy of the biographic information page of her Liberian passport, and evidence that she was admitted into the United States in August 2014, as a J-1 non-immigrant exchange visitor. The Applicant also submitted a letter from her church pastor and an affidavit from a friend in response to the Director's request for additional evidence of her continuous physical presence and residence in the United States.

On appeal, the Applicant submits a second affidavit from her friend. She cites to regulations at 8 C.F.R. § 244.9(a)(2), and contends that the regulations do not require evidence beyond affidavits to satisfy continuous physical presence and residence requirements for TPS. However, the regulations do not state that submission of such evidence alone is sufficient to establish U.S. residence or physical presence for TPS purposes. Rather, the regulation at 8 C.F.R. § 244.9(a)(2)(v) indicates that evidence of residence may include detailed attestations by churches or other relevant documentation. The regulation at 8 C.F.R. § 244.9(b) clarifies that "the sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value . . . ."

The entire record has been reviewed and considered. Upon review, we find that the evidence in the record is insufficient to establish the Applicant's continuous physical presence and residence in the United States during the requisite time periods.

### A. Continuous Physical Presence

The Applicant asserts that she has been continuously physically present in the United States since the effective date of the most recent designation of Liberia for TPS.

The regulation at 8 C.F.R. § 244.1 provides:

*Continuously physically present* 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.

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Persons applying for TPS offered to Liberians (and persons without nationality who last habitually resided in Liberia) must demonstrate that they have been continuously physically present since November 21, 2014. The TPS designation has been extended, with the latest extension valid until November 21, 2016.

The record contains a copy of the biographic information page of the Applicant's Liberian passport reflecting that she was admitted into the United States in August 2014, as a J-1 non-immigrant exchange visitor. The Applicant claims that she has not left the country since her admission in August 2014. She contends that she is unable to submit corroborative documentary evidence of her U.S. physical presence and residence because she did not obtain authorization to work, and is not working or attending school. The Applicant also states that she has no children, does not own property, has not engaged in financial transactions, and does not have insurance in this country. She provides no details about her living arrangements or how she supported herself in the United States, though, and she does not discuss the circumstances of her J-1 non-immigrant exchange visitor status and admission, or if she worked or studied pursuant to her J-1 non-immigrant status.<sup>1</sup>

The record also contains an attestation letter from the Applicant's church pastor and two affidavits from a friend. The Applicant's pastor states that she met the Applicant at her church in August 2014, that the Applicant expressed an interest in becoming part of the ministry about two months later, and that the Applicant attends her church regularly. The attestation does not conform to basic requirements specified in 8 C.F.R. § 244.9(a)(2)(v)(D), in that it is missing the address where the Applicant resided during the membership period. The letter is also general in nature, and does not provide the exact dates of the Applicant's church attendance, as required by 8 C.F.R. § 244.9(a)(2)(v)(C).

The Applicant's friend states in two affidavits that the Applicant has lived with her in [REDACTED] Maryland since August 2014, and that she and the Applicant go to church and attend family gatherings together. The friend also states that the Applicant does not work and is unable to support herself financially, and that she provides lodging, food, and clothing to the Applicant. The statements are vague and lack specific information regarding shared residence and experiences, and regarding the support provided, and the record contains no independent evidence to corroborate the statements. *See Matter of Kwan*, 14 I&N Dec. 175, 176-77 (BIA 1972) (affidavits should state the nature of the affiant's relationship, set forth the basis of the affiant's knowledge, and state facts the affiant knows rather than mere conclusory statements); *Matter of Y-B-*, 21 I&N Dec. 1136, 1139 (BIA 1998) (specific, detailed, and credible testimony or a combination of detailed testimony and corroborative background evidence is necessary to meet burden of proof.) Furthermore, the Applicant's friend's statements conflict with information contained in other evidence in the record.

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<sup>1</sup> The J exchange visitor non-immigrant visa category is for individuals approved to participate in work and study-based exchange visitor programs in the United States. *See* 22 C.F.R. § 62.4.

(b)(6)

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The record contains a state of Maryland marriage certificate reflecting that the Applicant was married on [REDACTED] 2014, and that she resided with her spouse in [REDACTED] Maryland. A Form I-130, Petition for Alien Relative, and a related Form G-325, Biographic Information form signed by the Applicant also state that the Applicant resided with her spouse in [REDACTED] from August until at least October 2014.<sup>2</sup> This evidence directly conflicts with claims that the Applicant has resided with her friend in [REDACTED] Maryland since arriving in the United States in August 2014. It is incumbent upon the Applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The inconsistencies have not been resolved in the Applicant's case.

Upon review, the evidence submitted by the Applicant lacks specificity and corroboration, and contains unresolved inconsistencies with regard to the Applicant's physical presence in the United States during the required time period. Accordingly, the evidence is insufficient to demonstrate that the Applicant has been continuously physically present in the United States since November 21, 2014.

#### B. Continuous Residence

The Applicant also asserts that she has continuously resided in the United States since the date designated for Liberia, in accordance with section 244(c)(1)(A)(ii) of the Act.

The regulation at 8 C.F.R. § 244.1 provides:

*Continuously resided* 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.

Persons applying for TPS offered to Liberians (and persons without nationality who last habitually resided in Liberia) must demonstrate that they have continuously resided in the United States since November 20, 2014.

The Applicant provided insufficient evidence to demonstrate that she has resided continuously in the United States since November 20, 2014. As discussed above, the attestation letter contained in the record does not conform to basic requirements specified in 8 C.F.R. § 244.9(a)(2)(v)(C) and (D). In addition, affidavit claims made by the Applicant's friend lack detailed information and are uncorroborated by independent evidence. See *Matter of Kwan*, 14 I&N Dec. at 176-77, *supra*;

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<sup>2</sup> The Applicant's spouse has since withdrawn the Form I-130 filed on the Applicant's behalf. He provided no reason for the withdrawal, and the record contains no evidence of a divorce or legal separation.

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*Matter of Y-B-*, 21 I&N Dec. at 1139, *supra*. The friend's affidavit statements also directly conflict with evidence stating that the Applicant is married and has resided with her spouse, and the inconsistencies have not been resolved by independent objective evidence. See *Matter of Ho*, 19 I&N Dec. at 591-92, *supra*. The Applicant provides no detailed explanation about her inability to obtain documentary evidence to corroborate her U.S. residence claims. The Applicant also does not explain claims that she has been unable to obtain work authorization or attend school, given her admission into the country on a work and study-based J-1 exchange visitor visa. In addition, the record contains no evidence of the Applicant's J-1 nonimmigrant visa application.

Upon review, the evidence submitted by the Applicant is insufficient to establish that she has continuously resided in the United States since November 20, 2014.

### III. CONCLUSION

An applicant for TPS has the burden of proving that he or she meets the requirements for this benefit, and is otherwise eligible under the provisions of section 244 of the Act. The Applicant has not established eligibility for TPS. Accordingly, we dismiss the appeal.

**ORDER:** The appeal is dismissed.

Cite as *Matter of H-K-S-*, ID# 16500 (AAO July 28, 2016)