



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

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

In Re: 21218517

Date: APR. 20, 2022

Appeal of California Service Center Decision

Application: Form I-821, Application for Temporary Protected Status

The Applicant seeks review of a decision denying her initial registration for Temporary Protected Status (TPS). *See* Immigration and Nationality Act (the Act) section 244, 8 U.S.C. § 1254a.

Department of Homeland Security (DHS) regulations, implementing the provisions of section 244 of the Act, 8 U.S.C. § 1254a, provide that an applicant who is a national of a foreign state designated by the Secretary of Homeland Security is eligible for TPS if they establish, among other criteria, that they have been continuously physically present in the United States since the effective date of the most recent designation of that foreign state and have continuously resided in the United States since a date designated by the Secretary. 8 C.F.R. § 244.2. Persons applying for TPS offered to Haitians¹ through the most recent designation (effective August 3, 2021), must demonstrate continuous residence in the United States since July 29, 2021, and continuous physical presence in the United States since August 3, 2021.

Continuously resided means “residing in the United States for the entire period specified in the regulations,” but an applicant shall not be considered to have failed to maintain continuous residence “because of a brief, casual and innocent absence . . . or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the [applicant].” 8 C.F.R. § 244.1 and § 244(c)(4)(B) of the Act.

Continuously physically present means “actual physical presence in the United States for the entire period specified in the regulations,” but an applicant shall not be considered to have failed to maintain continuous physical presence because of “brief, casual, and innocent absences.” 8 C.F.R. § 244.1.

The Director of the California Service Center denied the initial TPS registration, concluding that the Applicant had not shown continuous physical presence in the United States since August 3, 2021, and continuous residence in the United States since July 29, 2021, as required for Haitian TPS applicants.

On appeal, the Applicant contends she maintained continuous physical presence and residence in the United States during the required time periods. She submits the following evidence in support: an affidavit from her sister-in-law and bank statements showing debits made from inside the United States.

¹ As well as persons without nationality who last habitually resided in Haiti.

In her affidavit, the Applicant's sister-in-law asserts that the Applicant has been residing with her since her entry into the United States in 2016 and has never left. She explains further that she has been providing full room and board to the Applicant during this entire time period. In addition, the bank statements show the Applicant was in the United States, withdrawing money for various expenses during part of the relevant timeframe from August 26, 2021, to October 25, 2021.

Notably, these bank statements do not include the timeframe from July 29, 2021, to August 25, 2021, or any dates after October 25, 2021. Furthermore, the Applicant's sister-in-law's affidavit does not include the detail and specificity needed to establish residence during these dates through unsupported testimonial evidence alone. Thus, although the Applicant has now shown her residence and presence in the United States during part of the required time period, from August 26, 2021, to October 25, 2021, we find she has not shown her continued physical presence from August 3, 2021, and residence in the United States from July 29, 2021, as required. Therefore, the Applicant has not established her presence and residence in the United States during the required time periods for Haitian applicants for TPS (residence since July 29, 2021, and physical presence since August 3, 2021).

The burden of proof is on the applicant to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Here the Applicant has not met that burden. We will affirm the Director's decision that the Applicant has not shown her continuous physical presence and residence in the United States during the required time period and will dismiss the appeal.

ORDER: The appeal is dismissed.