



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

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

In Re: 20798296

Date: APR. 21, 2022

Appeal of California Service Center Decision

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

The Applicant seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

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 he maintained continuous physical presence and residence in the United States during the required time periods and submits evidence in support.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

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 he or she establishes, among other criteria, that he or she has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state and has 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 Haitians (and persons without nationality who last habitually resided in Haiti) through the August 3, 2021, designation 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 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).

II. ANALYSIS

The issue on appeal is whether the Applicant was continuously physically present and residing in the United States for the required time period. The Director found the Applicant had established his residence and presence in the United States from 2011 to 2013, but he had not shown he maintained continuous physical presence and residence in the United States during the time periods required by the designation. More specifically, the Director indicated that statements submitted to show his residence and presence in the United States did not provide the detail required to be probative nor were they supported by independent documentary evidence.

On appeal, the Applicant states that he has been living in the United States with his sister since 2012 and has never left the country since his first entry, occurring after the 2010 earthquake in Haiti. He explains that without work authorization or a social security card he has not been able to establish financial records or seek additional education that would establish his residence. He also states that he has no children. He claims that he has been attending church and plays organized soccer through a club organization. In support, he submits updated statements from his girlfriend and sister; a letter from his pastor; email printouts for sporting events; photographs of himself with dates; and receipt notices from the Department of Homeland Security.

We will affirm the Director’s previous decision. The email printouts and photographs do not indicate continuous presence or residence, but show the Applicant in locations, presumably in Florida, on sporadic dates (month and day), without a year attached. Furthermore, even if we were to presume the photographs were taken in 2021, only three (taken on July 30, September 17, and October 9) show dates during the relevant time period and would not be sufficient to establish continuous residence or presence for the entire required timeframe. Similarly, the email print-outs for attendance at a sporting event only include one relevant date (in October 2021), and his 2021 soccer club registration does not indicate for what timeframe he was registering or participating in games. Moreover, the statements submitted on appeal do not overcome the deficiencies in the record. The updated statements from his sister and pastor do not provide the detail and specificity required to show residence and presence with unsupported testimonial evidence alone. In addition, although the updated statement from the Applicant’s girlfriend provides details about how she and the Applicant spend their time together, her assertions lack specificity regarding the Applicant’s everyday presence or residence and are not supported with documentary evidence. 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 submitted sufficient evidence to meet that burden.

As such, the Applicant is ineligible for TPS because he has not demonstrated continuous residence in the United States since July 29, 2021, and continuous physical presence in the United States since August 3, 2021.

ORDER: The appeal is dismissed.