



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

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

In Re: 22172631

Date: AUG. 22, 2022

Appeal of California Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of Haiti 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 TPS request, concluding that the Applicant did not establish, as required, that she met the continuous residence and physical presence conditions under the TPS designation for Haiti.

On appeal, the Applicant submits a personal statement and reasserts eligibility for TPS.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

**I. LAW**

To be eligible for TPS, a national of a foreign state designated by the Secretary of Homeland Security must establish, in part that they have been continuously physically present in the United States since the effective date of the most recent designation of that foreign state for TPS and have continuously resided in the United States since a date designated by the Secretary of Homeland Security. 8 C.F.R. § 244.2.

Individuals applying for TPS offered to Haitians (and persons without nationality who last habitually resided in Haiti) must demonstrate that they have been continuously residing in the United States since July 29, 2021, and have been continuously physically present in the United States since August 3, 2021.<sup>1</sup>

*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

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<sup>1</sup> See *Designation of Haiti for Temporary Protected Status*, 88 Fed. Reg. 41863 (Aug. 3, 2021).

required by emergency or extenuating circumstances outside the control of the [applicant].” 8 C.F.R. § 244.1. *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.” *Id.*

The burden of proof is on the Applicant to demonstrate eligibility for the requested immigration benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). 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 her burden of proof, the Applicant must provide supporting documentary evidence of eligibility apart from her own statements. *Id.*

## II. ANALYSIS

The sole issue on appeal is whether the Applicant has shown that she has been continually residing in the United States since July 29, 2021, and that she has been continuously physically present in the United States since August 3, 2021. We have reviewed the entire record, including the Applicant’s statements on appeal and conclude that she has not made such a showing.

The record reflects that the Applicant filed the instant TPS request in August 2021, indicating that she was last admitted to the United States in February 2019 as a nonimmigrant visitor for pleasure (B-2). The Director subsequently issued a request for evidence (RFE) informing the Applicant that the initial documentation she provided, which consisted solely of her 2019 entry record, was not sufficient to establish that she met the continuous residence and physical presence requirements for TPS. The Director also advised the Applicant that to cure this deficiency she could submit additional evidence, including employment, medical, and school records; rent and utility bills, attestations by churches, unions, or other organizations; money order receipts, or any other relevant documentation. Lastly, the Director instructed the Applicant that if she did not have “any documentation at all,” she could submit affidavits from individuals who knew her well and who could attest to her residence and physical presence in the United States during the mandatory periods.

In response, the Applicant submitted a partial photocopy of her Haitian passport to show that she had not traveled outside of the United States since her February 2019 entry, and a statement that she could not provide any other documents, such as employment and financial records, because she did not have a valid immigration status in the United States. As stated, the Director denied the TPS request explaining that this was not sufficient to show that the Applicant satisfied the requisite continuous residence and physical presence conditions for TPS.

On appeal, the Applicant does not submit any additional evidence, aside from a statement reiterating that she is unable to provide any documentation of her residence and physical presence in the United States during the relevant periods because she did not have a lawful immigration status then and could not work, obtain state identity documents, or open a bank account. We acknowledge the Applicant’s explanation. However, to meet her burden of proof in these proceedings the Applicant must provide supporting documentary evidence of eligibility apart from her own statements. *See* 8 C.F.R. § 244.9(b).

As the Applicant does not provide any supplemental evidence we conclude that she has not met her burden of proof to establish that she has been continuously residing and physically present in the United States during the relevant periods, as required to qualify for TPS under the 2021 Haitian designation. Consequently, the Applicant has not overcome the basis for the denial of her TPS request, and her Form I-821 remains denied.

**ORDER:** The appeal is dismissed.