



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

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

In Re: 22376444

Date: AUG. 29, 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 Applicant's Form I-821, concluding that the Applicant did not establish she met the continuous residence and physical presence conditions under the TPS designation for Haiti.

On appeal, the Applicant submits additional evidence and reasserts eligibility.

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 remand the matter to the Director for additional review and entry of a new decision consistent with our opinion below.

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, 2021.¹

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

¹ 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 his burden of proof, the Applicant must provide supporting documentary evidence of eligibility apart from his own statements. *Id.*

II. ANALYSIS

The only issue on appeal is whether the Applicant has demonstrated that she meets the continuous residence and physical presence requirements to qualify for TPS under the designation of Haiti for such status.

The Director determined that the Applicant did not meet her burden of proof to show that she resided in the United States as of July 29, 2021, and that she was physically present in the United States from August 3, 2021, until filing her Form I-821 on August 10, 2021. Specifically, the Director concluded that while the Applicant was admitted to the United States in 2016, the evidence did not reflect her presence in the United States since that time. The Director further found that although the Applicant submitted a copy of an Employment Authorization Document issued to her by U.S. Citizenship and Immigration Services, and valid from November 6, 2019, to November 5, 2021, she did not provide evidence that she used that document to work in the United States.

The Applicant now submits additional documents. We have reviewed the record, as supplemented on appeal, and conclude that the grounds for the Director’s adverse decision have been overcome.

The additional evidence includes the Applicant’s U.S. monthly bank account statements showing regular deposits and withdrawals for the period from October 2020 through February 2022. The Applicant also submits her weekly earnings statements dated from June 30, 2021, through December 2021, as well as an employment confirmation letter stating that has been employed full-time at a supermarket in Florida as a cashier at a Florida supermarket since August 2018. Lastly, the Applicant’s school records reflect that she was enrolled in a Florida college from May 2021 through August 2021. Thus, the evidence considered in the aggregate is now sufficient to show that the Applicant has been continuously residing in the United States since July 29, 2021, and has been continuously physically present in the United States since August 3, 2021.

We will therefore return the matter to the Director to determine whether the Applicant meets the remaining eligibility criteria for TPS under the 2021 Haitian designation.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.