



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

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

In Re: 24782997

Date: MARCH 7, 2023

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 he met the continuous residence and physical presence conditions under the TPS designation for Haiti. The matter is now before us on appeal.

On appeal, the Applicant submits two affidavits and reasserts eligibility.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

## I. LAW

To be eligible for TPS, a national of a foreign state designated by the Secretary of Homeland Security must 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 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

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

“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. *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.*

## II. ANALYSIS

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

The record reflects that the Applicant filed the instant TPS request in August 2021, indicating that he was last admitted to the United States in April 2021 as a nonimmigrant visitor (B1/B2), and submitted a photocopy of his passport with the U.S. entry stamp. The Director issued a request for evidence asking the Applicant to submit additional documents to establish his continuous residence and physical presence in the United States after entry, including employment or school records, rent or utility bills, medical and financial records, and similar documentation. The Director indicated that if the Applicant did not have “any documentation at all,” he could submit affidavits from individuals who knew him well and who could attest to his continuous residence and physical presence in the United States for the entire periods mandated under the Haitian TPS designation.

In response, the Applicant resubmitted a copy of his Haitian passport with the 2021 U.S. entry stamp. As stated, the Director denied the TPS request finding that the evidence of entry alone was not sufficient to establish that the Applicant met the continuous residence and physical presence conditions for TPS.

On appeal, the Applicant states that he has not left the United States since the April 2021 entry, and submits two affidavits—from his brother-in-law, and from a friend. When affidavits are submitted to establish eligibility for an immigration benefit, they must overcome the unavailability of both primary and secondary evidence. 8 CFR § 103.2(b)(2). The two affidavits the Applicant submits on appeal do not satisfy this requirement, because they lack sufficient details and corroboration.

The Applicant’s brother-in-law states generally that the Applicant has been living in his household since April 30, 2021, that to the best of his knowledge the Applicant has not left the United States since that date, and that he “will be a great contributor to our society with his technical skills and abilities.” The Applicant’s friend, in turn states that he has known the Applicant for 15 years and is happy to report that the Applicant has been living in Ohio since April 30, 2021, the day he arrived in Ohio from Haiti. He further states that to the best of his knowledge the Applicant has never left the United States since he has been in Ohio. However, neither affiant provides any details about the Applicant’s everyday presence and residence in the United States that might point to the continuity of his residence and physical presence in the country for the entire specified periods, including how he supports himself in the United States, whether he is employed, or any other information about his regular day-to-day activities. Because the affiants’ statements lack specificity and are not supported by other evidence of the Applicant’s claimed continuous residence and physical presence in the United

States, we cannot give their testimony significant weight. As the Applicant does not submit any other documentation and does not explain if and/or why the primary evidence requested by the Director is unavailable, we conclude that he has not overcome the grounds for the denial of his TPS request.

The Applicant therefore has not met his burden of proof to establish that he has been continuously residing in the United States since July 29, 2021, and that he has been continuously physically present in the United States since August 3, 2021, as required to qualify for TPS under the 2021 Haitian designation. Consequently, his Form I-821 remains denied.

**ORDER:** The appeal is dismissed.