



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

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

In Re: 22602755

Date: SEPT. 21, 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 to show that she meets those requirements.

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 her burden of proof, the Applicant must provide supporting documentary evidence of eligibility apart from her 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 2021 designation of Haiti for such status.

The Director determined that the Applicant did not meet her burden of proof to show that she continuously resided in the United States as of July 29, 2021, and that she was continuously 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 establish her presence in the United States after that date. The Director acknowledged that the Applicant’s received a high school diploma in 2019, and that she was employed in the United States in 2020, but explained that those documents did not reflect that she continuously resided and was physically present in the United States during the relevant periods.

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 June through August 2021, her Form W-2, Wage and Tax Statement for the year 2021, as well as weekly earnings statements dated from July 18, 2021, through August 2021. The Applicant also submit a copy of her and her parents’ Florida apartment lease agreement for one year period from August 2021 through August 2022. This evidence, considered in the aggregate is 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.