

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21539723 Date: AUG. 17, 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 was ineligible for such status because he was firmly resettled in Taiwan before arriving in the United States.

On appeal, the Applicant submits additional evidence 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 that burden.

I. LAW

A national of a TPS-designated country is not eligible for TPS if they were firmly resettled in another country prior to arriving in the United States. Section 244(c)(2)(B)(ii) of the Act; section 208(b)(2)(A)(vi) of the Act, 8 U.S.C. § 1158(b)(2)(A)(vi); 8 C.F.R. § 244.4(b).

An individual is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes: 1) that entry into that country was a necessary consequence of his or her flight from persecution, he or she remained in that country only as long as was necessary to arrange onward travel, and did not establish significant ties in that country; or 2) that the conditions of residence in that country were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled. 8 C.F.R. § 208.15(a)-(b).

TPS applicants must submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). 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 the burden of proof, applicants must provide supporting documentary evidence of eligibility apart from their own statements. *Id*.

II. ANALYSIS

The issue on appeal is whether the Applicant has established that he was not firmly resettled in another country prior to entering the United States. Upon review of the entire record, as supplemented on appeal we conclude that he has not.

On August 3, 2021, the Secretary of Homeland Security designated Haiti for TPS. See Designation of Haiti for Temporary Protected Status, 86 Fed. Reg. 41863, 41864 (explaining that the designation was warranted because of "extraordinary and temporary conditions" in Haiti that arose following that country's most recent national elections in November 2016, and which included a deteriorating political crisis, violence, and a staggering increase in human rights abuses).

Shortly thereafter, the Applicant filed the instant TPS request, representing that he last entered the United States as a nonimmigrant visitor (B-2) in March 2020, and that prior to that entry he resided in Taiwan.

Because this indicated that the Applicant may have been firmly resettled in Taiwan, the Director issued a request for evidence (RFE), asking the Applicant to provide, in part additional information including a list of all addresses where he lived before coming to the United States, and the length of time he spent at each address. The Director also requested the Applicant to explain his immigration status in any other country where he may have resided; whether he had permission to stay there either permanently or temporarily; and his reasons for leaving that country. Lastly, the Director asked the Applicant to explain whether he was a refugee and had the same privileges as other individuals living in that country, and to provide documentation concerning his citizenship in any other country, any immigration documents, expired passports, school records, employment documents, and any evidence the Applicant believed would show that he was not firmly resettled in another country.

The Applicant did not include the requested information in his response to the RFE. Consequently, the Director determined that absent a rebuttal the Applicant was considered to have been firmly resettled in Taiwan and was ineligible for TPS because of his "failure to provide information necessary for the adjudication of [his] application."

The Applicant now submits a personal statement about his residence and addresses in Taiwan, a copy of his current foreign passport issued in 2021, as well as copies of his school and employment records from Taiwan. For the following reasons, we conclude that this evidence is insufficient to overcome the grounds for the denial of his TPS request.

In *Matter of A-G-G-*, 25 I&N Dec. 486 (BIA 2011), the Board of Immigration Appeals (the Board) set forth a four-step framework for determination of firm resettlement under section 208(b)(2)(A)(vi) of the Act and 8 C.F.R. § 208.15:

(1) The government bears the burden of presenting *prima facie* evidence of an offer of firm resettlement by producing direct evidence of governmental documents indicating

a noncitizen's ability to stay in a country indefinitely or indirect evidence, if of a sufficient level of clarity and force;

- (2) The noncitizen can rebut the *prima facie* evidence by showing by a preponderance of the evidence that such an offer has not been made or that they would not qualify for it;
- (3) The totality of the evidence presented by both parties is considered to determine whether the noncitizen has rebutted the evidence of an offer of firm resettlement; and
- (4) If the noncitizen is found to have firmly resettled, the burden shifts to the noncitizen to establish by a preponderance of the evidence that an exception to firm resettlement applies.

In the first step of the firm resettlement analysis, USCIS must present either direct or, if unavailable indirect evidence of an offer of firm resettlement. *Id.* at 501-02. Direct evidence may include documentation of refugee status, a passport, a travel document, or other evidence indicative of permanent residence. *Id.* Indirect evidence may include the following: the immigration laws or refugee process of the country of proposed resettlement; the length of the foreign national's stay in a third country; the foreign national's intent to settle in the country; family ties and business or property connections; the extent of social and economic ties developed by the foreign national in the third country; the receipt of government benefits or assistance, such as assistance for rent, food, and transportation; and whether the foreign national had legal rights normally given to people who have some official status, such as the right to work and enter and exit the country. *Id.*

Here, the Applicant represented on his Form I-821 that he resided in Taiwan immediately prior to entering the United States. In addition, the record includes a copy of the U.S. nonimmigrant visa issued to him in Taiwan in April 2019. The Applicant's claimed longtime residence in Taiwan, and the fact that he was issued a U.S. nonimmigrant visitor visa there are indirect evidence that he had an offer of firm resettlement in Taiwan before coming to the United States in 2020.

In the second step of the firm resettlement analysis, the Applicant can rebut the evidence of an offer of firm resettlement by showing that such an offer has not been made or that he would not qualify for it. *Matter of A-G-G-* at 503. On appeal, the Applicant states that he was an international student in Taiwan from 2007 until 2015, and that he was subsequently employed there from 2015 until November 2019. He claims that he never applied for nor obtained residency in Taiwan; he was not allowed to remain in the country and left in 2019 after completing his studies and temporary practical training. In support, the Applicant submits his school and employment records.

The Applicant's statements and the supporting documents are not sufficient to rebut evidence indicative of his firm resettlement in Taiwan.

The Applicant's school records reflect that he attended various schools in Taiwan from 2007 until his graduation with a degree in mechanical engineering in 2015. Although the Applicant characterizes his subsequent employment in Taiwan as "temporary practical training, the "Service Certification"

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¹ To obtain this type of visa individuals must establish that they have residence in a foreign country which they have no intention of abandoning, and that they are coming to the United States temporarily for business or pleasure. *See* section 101(a)(15)(B) of the Act, 8 U.S.C. § 1101(a)(15)(B).

letter he submits on appeal reflects that he had been working for a Taiwanese company as an engineer for at least four years, from November 2015 and as of November 2019. There is nothing in the letter to indicate that this employment was temporary or that he was otherwise not authorized to live and work in Taiwan and was required to leave the country. Rather, the Applicant's longtime residence and employment in Taiwan are further evidence that he was firmly resettled there. The Applicant does not provide evidence, such as employment authorization documents, visas, residential permits, or any other immigration documents issued to him by Taiwanese authorities to support his claim that his residence in Taiwan was only temporary, and that he was required to leave the country in 2019. Nor does the Applicant submit copies of his expired passports with evidence of his foreign travels, including his departures and entries into Taiwan before he arrived in the United States in 2020.

Without such documentation, we cannot conclude that the Applicant has sufficiently rebutted the evidence pointing to his firm resettlement in Taiwan. The Applicant has not claimed that he remained there only so long as was necessary to arrange onward travel. Moreover, aside from his unsupported statement that he was not allowed to remain in Taiwan after 2019, the Applicant has not claimed that while he lived there his rights were so substantially and consciously restricted by Taiwanese authorities that he was not in fact resettled there. The Applicant therefore has not shown that he meets the firm resettlement exception in 8 C.F.R. § 208.15(a) or (b).

Based on the above, we conclude that the Applicant has not met his burden of proof to establish that he is not subject to the firm resettlement bar notwithstanding his longtime residence and employment in Taiwan or, in the alternative that he qualifies for an exception to this bar.

Consequently, the Applicant has not overcome the grounds for the denial of his TPS request, and his Form I-821 remains denied.

ORDER: The appeal is dismissed.