



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

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

In Re: 23232128

Date: DEC. 5, 2022

Motion on Administrative Appeals Office 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, and we dismissed a subsequent appeal on the same grounds.

The matter is now before us on a combined motion to reopen and reconsider.

Upon review, we will dismiss the motions.

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider, in turn must establish that our decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services' (USCIS) policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

As previously discussed, 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.

II. ANALYSIS

In our previous decision, which we incorporate here by reference, we acknowledged the Applicant's claim that although he had been residing in Florida since 2012, he was unable to provide employment and financial records due to the lack of legal status in the United States. Nevertheless, we concluded that the evidence he did submit in support of his TPS request, which consisted of affidavits,

photographs and email printouts related to sporting events, and receipt notices from the Department of Homeland Security was insufficient to establish his requisite continuous residence and physical presence in the United States. Specifically, we explained that while the email printouts and photographs indicated that the Applicant may have been in Florida on certain dates, they were insufficient to establish that he continuously resided and was physically present there during the entire periods required under the Haitian TPS designation. We further determined that the statements from the Applicant's girlfriend, pastor, and sister were similarly insufficient to establish continuity of his residence and physical presence in the United States because they were neither detailed nor supported by primary documentation.

In support of the instant motion, the Applicant submits a personal statement, updated affidavits from his girlfriend, sister, and his soccer coach, additional email and photo printouts with dates, and a vaccination record. Upon review, we conclude that this supplemental evidence is not sufficient to overcome our previous determination.

First, some of the photographs depicting the Applicant with his girlfriend in a car or on a soccer field, presumably in Florida, are dated in early June and July 2021. As such, they do not establish that the Applicant resided and was physically present in the United States since the dates specified under the designation of Haiti for TPS. The Applicant also provides printouts of photos dated on July 29, 2021, July 31, 2021, and August 2, 2021, explaining that he was involved in soccer championship games in Florida for three days in late July 2021 and from August 2, 2021, through August 8, 2021. However, as previously discussed, the photographs alone are inadequate to establish the continuity of the Applicant's residence and physical presence; rather, they indicate only that he was in the United States on specific dates and attended sporting events. The updated affidavits do not overcome this deficiency, as they still do not include details about the Applicant's residence and physical presence in the United States. Specifically, the Applicant's soccer coach states in his affidavit that he had known the Applicant for five years, and attests to his good character, work ethic, performance, and communication skills. However, he does not explain when the Applicant joined the team, how often he attends soccer practice, nor does he provide any other information that might point to the Applicant's continuous residence and physical presence in the United States during the relevant periods. Similarly, the Applicant's girlfriend does not include any new information about the Applicant's residence and daily activities in the United States aside from stating that on August 3, 2021, she went with him to a UPS store to mail his TPS application, which she did not mention in her previous affidavits. Lastly, the updated affidavit from the Applicant's sister has limited probative value, as it also lacks details and specificity. The sister states generally that she can attest to the Applicant's residence in the United States for over 10 years, that he "never left the United States due to his status," and that he therefore was "undeniably, continually physically present" on July 29, 2021, and thereafter. However, as she does not provide specific information about the Applicant's residence, living arrangements, and means of support in the United States, we cannot give this general unsupported statement significant weight.

We acknowledge the submission of a Covid-19 vaccination card, indicating that the Applicant received vaccines in February and March 2022. We note, however, that it is not clear whether this is a genuine document, as the information about the dates and type of vaccinations appears to have been printed (February 2022) and handwritten (March 2022) on a separate piece of paper and pasted onto the card. Moreover, even if the card is genuine, it does not include any additional information, such

as the Applicant's address or the location of the medical facility where the vaccinations were administered that might point to the Applicant's continuous residence and physical presence in the United States since July 29, 2021, and August 3, 2021, respectively.

Based on the above, we conclude that the additional evidence is not sufficient to overcome our previous determination that the Applicant has not met his burden of proof to demonstrate the requisite continuous residence and physical presence in the United States during the periods specified in the designation of Haiti for TPS. Consequently, the Applicant has not established that reopening of his TPS proceedings is warranted.

Furthermore, as the Applicant does not point to any legal or USCIS policy errors in our appellate decision and he does not claim that it was incorrect based on the evidence in the record of proceedings at the time we dismissed his appeal, we have no basis for reconsidering our previous determination of his ineligibility for TPS on the grounds discussed above.

III. CONCLUSION

The Applicant has not established new facts concerning his claim of continuous residence and physical presence in the United States sufficient to warrant reopening of these proceedings, nor has he shown that we erred as a matter of law or USCIS policy in dismissing his appeal, or that the decision was otherwise incorrect based on the evidence in the record of proceedings at the time. Consequently, we have no basis for reopening or reconsideration of our prior decision. The Applicant's appeal therefore remains dismissed, and his underlying TPS request remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.