



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

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

In Re: 22477166

Date: SEPT. 27, 2022

Appeal of California Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of Burma (Myanmar) 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 she met the continuous residence and physical presence conditions under the TPS designation for Burma.

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 dismiss the appeal because the Applicant has not met this burden.

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 Burmese nationals (and persons without nationality who last habitually resided in Burma) must demonstrate that they have been continuously residing in the United States since March 11, 2021, and have been continuously physically present in the United States since May 25, 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 Burma (Myanmar) for Temporary Protected Status*, 86 Fed. Reg. 28132 (May 25, 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 shown that he has been continually residing in the United States since March 11, 2021, and that he has been continuously physically present in the United States since May 25, 2021. We have reviewed the entire record of proceedings as supplemented on appeal, and conclude that he has not.

The record reflects that the Applicant filed the instant TPS request in July 2021, indicating that he was last admitted to the United States in February 2018 as a nonimmigrant visitor for pleasure (B-2). The Director subsequently issued a request for evidence asking the Applicant to submit employment, medical, and school records; rent and utility bills, attestations by churches, unions, or other organizations; money order receipts, or any other relevant documentation to establish that he met the continuous residence and physical presence requirements for TPS. The Director also instructed the Applicant that if he did not have “any documentation at all,” he could submit affidavits from individuals who knew him well and who could attest to him residence and physical presence in the United States during the mandatory periods.

In response, the Applicant submitted a letter from an individual who stated that the Applicant did not have the requested documentation, but that she and her family “happen[ed] to know his continuous residence,” because they have been helping him. The individual further stated that her mother (who has since died) picked the Applicant up from the airport when he arrived in the United States, and that she therefore knew the Applicant well and could attest to his continued residence in the United States since March 11, 2021, and his continued physical presence since May 25, 2021. In denying the application, the Director explained that the letter² was insufficient because it did not specify where and how long the Applicant has been residing, nor was it supported by any primary evidence.

On appeal, the Applicant does not make any assertions regarding the letter or the Director’s finding of its insufficiency, stating only that he has been staying with friends since 2018 and does not have any utility bills. Instead, the Applicant submits a 2020 lease renewal form he claims proves that he has been living with the father and sister of the individual who previously attested to his continuous residence and physical presence in the United States. He also submits a COVID-19 vaccination card. This evidence is inadequate to overcome the grounds for denial. Specifically, the lease renewal form

² Although the Director referred to this letter as an “affidavit,” there is no indication that the statement therein was provided under oath or notarized.

does not contain any information to suggest that the Applicant resided at that specific address with the individuals listed therein as lessees. The vaccination card in turn indicates that the Applicant received three doses of COVID-19 vaccine in April 2021, May 2021, and March 2022. While this points to the Applicant's presence in the United States in May 2021, it is insufficient to show that his presence was continuous, or that he resided in the United States as of March 11, 2021. Lastly, we note that according to U.S. Citizenship and Immigration Services records the Applicant departed from the United States on August 29, 2022, and there is no indication that he has since returned.

Based on the above, we conclude that the Applicant has not met his burden of proof to establish that he has been continuously residing and physically present in the United States during the relevant periods, as required to qualify for TPS under the 2021 Burmese designation. Consequently, the Applicant has not overcome the basis for the denial of his TPS request, and his Form I-821 remains denied.

ORDER: The appeal is dismissed.