



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

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

In Re: 25094695

Date: MARCH 20, 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 Form I-821, concluding that the Applicant did not provide sufficient information to establish he was not subject to the ineligibility grounds for TPS described in sections 244(c)(1)(A) and 244(c)(2)(B) of the Act. The matter is now before us on appeal.

On appeal, the Applicant submits additional evidence 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.

All TPS applicants must complete Form I-821 in accordance with the form instructions and submit all documentation listed therein or requested by USCIS. 8 C.F.R. § 244.17(a).

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 that they have continuously resided in the United States since a date designated by the Secretary of Homeland Security. Section 244(c)(1)(A) of the Act; 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

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

In addition, TPS applicants must demonstrate that they are not subject to the mandatory asylum-related bars set forth in section 208(b)(2)(A) of the Act, 8 U.S.C. § 1158(b)(2)(A).² Section 244(c)(2)(B) of the Act.

The Applicant answered all questions in Part 7 of the instant Form I-821, Eligibility Standards, in the negative indicating that he has never been a member of or participated in military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, militia, or insurgent organization; that he never worked in a prison, jail, prison camp, detention facility, labor camp, or any other situation that involved detaining persons; and that he has never received any type of military, paramilitary, or weapons training.

The Director noted, however that on an application for another immigration benefit the Applicant claimed he was a longtime militant associated with the [REDACTED] Political Party since 2005, that he actively campaigned against the ruling party and was considered a dissident in Haiti. The Director then issued a request for evidence (RFE) asking the Applicant to provide additional information including the name of the militant or non-governmental group of which he was a member; the specific dates of his membership and his duties within the group; the name of his commanding officer and whether his service in that group was voluntary or involuntary; and types of weapons he was trained to use. The Director also requested the Applicant to provide evidence that he has been continuously residing and has been physically present for the entire periods specified under the designation of Haiti for TPS.

In response, the Applicant submitted a record of his entries and departures from the United States since 2016 and documents dated in 2021 to show his continuous residence and physical presence in the United States. However, as the Applicant did not provide the requested information concerning his previous claim of being a militant associated with the [REDACTED] Political Party, the Director determined in part that the Applicant did not establish he was not subject to the ineligibility grounds in section 244(c)(2)(B) of the Act and, thus did not meet his burden of demonstrating eligibility for TPS. The Applicant has not overcome this determination.

In his statement on appeal, the Applicant explains that he is not fluent in English and because he did not understand the questions and did not know how to respond he answered “no” to all questions in Part 7 of the Form I-821. He confirms that he was associated with the [REDACTED] Party since 2005, but did not mention it in his response to the RFE because the individual he asked for help in translating the notice told him only he was required to submit proof of residence in the United States. The supplemental evidence the Applicant submits on appeal consists of an employment verification letter and four affidavits attesting to the Applicant’s residence and physical presence in the United States since December 2019. The affiants indicate generally that the Applicant was involved with the [REDACTED] Party since 2005, and that he told them he did not want to return Haiti because he feared for his life. However, as the Applicant still does not provide the detailed information

² Those grounds include ordering, assisting, or otherwise participating in persecution of others on account of race, religion, nationality in a particular social group, or political opinion; posing danger to the community of the United States due to a conviction of a particularly serious crime; reasonable grounds for regarding a noncitizen as a danger to the security of the United States; and terrorist-related inadmissibility grounds.

concerning his claim of being a militant associated with the [] Party specifically requested by the Director, he has not overcome the grounds for the denial of his TPS request.³

ORDER: The appeal is dismissed.

³As those grounds are dispositive of the Applicant's eligibility for TPS, we need not address at this time whether the Applicant has demonstrated the requisite continuous residence and physical presence in the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach").