



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

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

In Re: 29179383

Date: DEC. 8, 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 record reflects that the Applicant was initially granted TPS in 2010. In April 2022 she filed the instant Form I-821, Application for Temporary Protected Status, indicating that it was her initial TPS request, and a Form I-765, Application for Employment Authorization.

The Director of the California Service Center denied the TPS request, concluding that the Applicant did not establish eligibility for such status because she did not answer question 12.d. in Part 7 of the Form I-821 (“Are you the spouse or child of an alien who assisted, abetted, conspired, or colluded with others in the unlawful trafficking of any controlled substance?”), as requested.

On appeal, the Applicant states that her answer to the above question is “no.” She further states that the individual who prepared the Form I-821 on her behalf incorrectly indicated that she was seeking TPS as an initial matter, while she only wanted to extend the validity of her previous 2010 TPS grant and related benefits.

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 withdraw the Director’s decision and remand the matter for entry of a new decision consistent with the following analysis.

The Secretary of Homeland Security designated Haiti for TPS in 2010, and subsequently extended the designation and redesignated Haiti for such status in 2011.¹ Although that designation was terminated effective on July 22, 2019,² beneficiaries under the initial TPS designation for Haiti will retain their

¹ See *Designation of Haiti for Temporary Protected Status*, 75 ed. Reg. 3476 (Jan. 12, 2010); *Extension and Redesignation of Haiti for Temporary Protected Status*, 76 Fed. Reg. 29000 (May 19, 2011).

² See *Termination of the Designation of Haiti for Temporary Protected Status*, 83 Fed. Reg. 2648 (Jan. 18, 2018). Haiti has since been redesignated for TPS twice, in 2021 and 2023. See *Designation of Haiti for Temporary Protected Status*,

status for as long as preliminary injunctions ordered by the U.S. District Court for the Northern District of California in *Ramos, et al v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Sept. 14, 2020) and *Bhattarai v. Nielsen*, No. 19-cv-00731 (N.D. Cal. Oct. 3, 2018) remain in effect, if they remain individually eligible for TPS. See *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal*, 85 Fed. Reg. 79208 (Dec. 09, 2020); 86 Fed. Reg. 50725 (Sept. 10, 2021); 87 Fed. Reg. 68717 (Nov. 16, 2022). In addition, the Department of Homeland Security has automatically extended through June 30, 2024, the validity of Employment Authorization Documents (EADs) and other TPS-related documentation for TPS beneficiaries affected by these court orders. Eligible TPS beneficiaries granted TPS under the 2011 designation of Haiti who are covered by the *Ramos* injunction and who would like an EAD with the extended validity date of June 30, 2024, must file Form I-765, Application for Employment Authorization, with the appropriate filing fee (or obtain a fee waiver). 87 Fed. Reg. at 68718-20.

In the alternative, beneficiaries of the prior Haiti designation may register for TPS under the 2021 designation to help ensure that their TPS continues in the event the *Ramos* preliminary injunction is no longer in effect and if the Secretary should extend TPS again after appropriate review of country conditions.³

Because the Applicant has now answered the question 12.d. in Part 7 of the Form I-821 in the negative, the sole reason for the denial of her Form I-821 appears to have been overcome. We will therefore return the matter to the Director to determine if the Applicant meets the eligibility criteria for a grant of initial TPS under the 2021 Haitian designation or, in the alternative, whether she qualifies for an extension of TPS-related benefits based on her previous 2010 TPS grant.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

88 Fed. Reg. 41863 (Aug. 3, 2021); *Extension and Redesignation of Haiti for Temporary Protected Status*, 88 Fed. Reg. 5022 (Jan. 26, 2023).

³ See U.S. Citizenship and Immigration Services, *Temporary Protected Status Designated Country: Haiti*, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti>.