



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

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

In Re: 28650293

Date: OCT. 27, 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 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 establish eligibility for TPS due to the discrepancy concerning the month of his birth. On appeal, the Applicant submits a statement with the previously provided documents 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

The record reflects that in 2001 the Applicant filed a request for asylum in the United States, representing that he was born in [ ] 1966. The evidence submitted with that request included a copy of his birth certificate issued by a local civil registry office in [ ] Haiti on November 25, 1999, which indicated that he was born there in [ ] 1966. In 2010, after an Immigration Judge denied the Applicant's asylum request, he filed a Form I-821 and again represented that he was born in [ ] 1966. U.S. Citizenship and Immigration Services approved the Applicant TPS request, and he has been re-registering his status since that time, as required. Because on the instant Form I-821 the Applicant indicated that he was born in [ ] 1966 and submitted a Haitian passport with that date of birth, the Director issued a request for evidence (RFE) asking the Applicant to submit "documentary evidence to establish [his] true date of birth," including his "birth certificate and/or passport." In response, the Applicant provided a copy of his birth certificate extract issued by the National Archives of Haiti in 2012, and resubmitted a copy of the biographical page from his Haitian passport, both of which reflect that he was born in [ ] 1966. Nevertheless, the Director denied the Form I-821 on the basis that the Applicant "did not address the date of birth discrepancy" in his RFE response.

In his statement on appeal, the Applicant explains that he cannot read and did not realize that the month of birth he previously claimed was incorrect until he obtained an extract of his birth certificate from the National Archives of Haiti,<sup>1</sup> which he was required to provide to Haitian authorities in order to be issued a Haitian passport. The Applicant points out that the only difference between these documents and his locally issued birth certificate is the month of his birth.

The submission of this explanatory statement appears to overcome the sole reason for the denial of the Applicant's TPS request. However, as the record does not indicate that the Director reviewed it before forwarding the appeal to our office, we will return the matter to the Director to consider the Applicant's explanation and to enter a new decision concerning his eligibility for TPS. The Director may request the Applicant to provide any additional evidence deemed necessary to make this determination.

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

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<sup>1</sup> In Haiti, an original birth certificate (*Acte de Naissance*) is issued only once when a birth is initially declared. It is issued by a regional civil office, domestically. If any additional certificate is required, after one year of the original declaration, requests must be made to the National Archives for an extract of the birth certificate (*Extrait de Naissance*). See U.S. Department of State, Bureau of Consular Affairs, Reciprocity Table, Haiti, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Haiti.html>.