



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

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

In Re: 33549192

Date: SEPT. 18, 2024

Appeal of a Texas Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of Venezuela, 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 Texas Service Center denied the TPS application, finding the Applicant ineligible for having ordered, incited, assisted, or otherwise participated in the persecution of others on account of their race, religion, nationality, political opinion, or membership in a particular social group. More specifically, the Director based this finding on the Applicant's testimony, under oath, that from approximately January 2015 to February 2016, while serving as the personal assistant to [REDACTED] [REDACTED] the Applicant passed down orders from [REDACTED] to the [REDACTED] [REDACTED] which resulted in protestors being beaten and detained under inhumane conditions, described as putting 50 people in a jail cell meant to hold 10 people. The Applicant also testified that he was aware these orders would result in human rights abuses and the punishment for not passing the orders down would be a fine, sanction, or legal action. As a result of this testimony and the known record of human rights abuses in Venezuela, an asylum officer found the Applicant had assisted in the persecution of others and was barred from asylum under 208(b)(2)(A) of the Act. The asylum application was then referred to an immigration judge where his hearing is pending.

An applicant is ineligible for TPS if he ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership of a particular social group, or political opinion. Sections 244(c)(2)(B)(ii), 208(b)(2)(A) of the Act.

On appeal, the Applicant submits a brief and copies of the previous notices issued by USCIS in his TPS and asylum application. In her brief, counsel states that during the time in question the Applicant only witnessed orders being transmitted to the [REDACTED] concerning the arrest and detention of protestors and admits to passing down orders concerning the equipment to be employed against the protestors, but never implicitly or explicitly ordering protestors to be beaten and detained.

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 agree with the Director's finding and will dismiss the appeal.

In our proceedings, the burden of proof is on an applicant to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Thus, the Applicant must show it is more likely than not that the persecutor bar does not apply to him. Counsel's unsubstantiated assertions do not constitute evidence. See, e.g., *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). Moreover, even if the orders the Applicant passed down to the [redacted] were regarding what equipment would be used to beat and detain protestors, the Applicant testified that he was clearly aware that his orders would result in human rights abuses to protestors. Thus, we affirm the Director's finding. The Applicant has not established he is eligible for TPS because he has not overcome evidence in the record (his own testimony under oath) indicating he assisted in the persecution of others on account of their race, religion, nationality, membership of a particular social group, or political opinion.

ORDER: The appeal is dismissed.