



U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: WASHINGTON DISTRICT

Date: JAN 08 2008

IN RE:

Applicant:

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of  
September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Washington, D.C. and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who is seeking to adjust his status to that of lawful permanent resident under section 13 of the Act of 1957 ("Section 13"), Pub. L. No. 85-316, 71 Stat. 642, as modified, 95 Stat. 1611, 8 U.S.C. § 1255b, as an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(G)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(G)(i).

The district director denied the application for adjustment of status after determining that the applicant had failed to demonstrate that compelling reasons prevent his return to Pakistan or that his adjustment would serve U.S. national interest. *Decision of District Director* dated April 23, 2001 (issued May 2, 2001).

The applicant's wife [REDACTED] and children [REDACTED] and [REDACTED] each submitted an Application for Status as Permanent Resident (Form I-485) seeking to adjust status under Section 13. The district director issued separate decisions denying these applications. No Form I-290B, with accompanying fee, has been filed on behalf of either the applicant's wife or his children. Consequently, the only matter before the AAO is the denial of the applicant's application to adjust status.

On appeal, counsel states that the decision was erroneous, capricious and contrary to the weight of the evidence. *See Form I-290B, part 3.* Counsel contends that the applicant will be persecuted if he returns to Pakistan because of his moderate Islamic beliefs, as demonstrated by an attached statement from the applicant. *Id.* Counsel also asserts that the evidence shows that the applicant retired from his position at the Pakistan Mission to the United Nations after his last entry to the United States and that his responsibilities were semi-diplomatic in nature. *Id.*

Section 13 of the Act of September 11, 1957, as amended on December 29, 1981, by Pub. L. 97-116, 95 Stat. 1161, provides, in pertinent part:

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date [on which] the order of the Attorney General approving the application for adjustment of status is made.

8 U.S.C. § 1255(b).

Pursuant to 8 C.F.R. § 245.3, eligibility for adjustment of status under Section 13 is limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government that accredited the applicant, and that adjustment of the applicant's status to that of an alien lawfully admitted to permanent residence would be in the national interest. Aliens whose duties were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under Section 13.

The legislative history for Section 13 reveals that the provision was intended to provide adjustment of status for a "limited class of . . . worthy persons . . . left homeless and stateless" as a consequence of "Communist and other uprisings, aggression, or invasion" that have "in some cases . . . wiped out" their governments. Statement of Senator John F. Kennedy, *Analysis of Bill to Amend the Immigration Nationality Act*, 85th Cong., 103 Cong. Rec. 14660 (August 14, 1957). The phrase "compelling reasons" was added to Section 13 in 1981 after Congress "considered 74 such cases and rejected all but 4 of them for failure to satisfy the criteria clearly established by the legislative history of the 1957 law." H. R. Rep. 97-264 at 33 (October 2, 1981).

The AAO now turns to a review of the evidence of record, including the information submitted on appeal. In making a determination of statutory eligibility, U.S. Citizenship and Immigration Services (USCIS) is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii).

A review of the record establishes the applicant's eligibility for consideration under Section 13. The applicant was initially admitted in G-1 status on December 6, 1993 and served thereafter as a Deputy Permanent Representative to the United Nations until December 23, 1997. *Letter from [REDACTED] Chief of Diplomatic Liaison Division, Visa Office, Department of State*, dated April 18, 2001. Nevertheless, the applicant was again admitted to the United States in G-1 status on January 24, 1998 after a brief return visit to Pakistan. As per the requirements of Section 13, the applicant was admitted to the United States in semi-diplomatic status under 101(a)(15)(G)(i) of the Act but no longer held that status at the time of his application for adjustment on March 24, 1988.

As a result, the only issue before the AAO is whether the record also establishes that compelling reasons prevent the applicant's return to the Philippines and that his adjustment will serve U.S. national interests.

In his statement submitted on appeal, the applicant asserts that he is afraid to return to Pakistan because his elder brother and nephew were kidnapped and murdered in August 1999 by terrorists that have never been apprehended. *Statement of Applicant*, dated May 18, 2001. The applicant states that before the murders, his nephew had received anonymous threatening phone calls. *Id.* The applicant states that he is afraid he and his family will meet the same fate. *Id.* The applicant also indicates that his children have grown up in the United States, and contends that they will not have educational opportunities if they return to Pakistan. *Id.*

As discussed above, the legislative history of Section 13 shows that Congress intended that “compelling reasons” relate to political changes that render diplomats and foreign representatives “stateless or homeless” or at risk of harm following political upheavals in the country represented by the government which accredited them. The general inconveniences and hardships associated with relocating to another country are not compelling reasons under Section 13.

The AAO concludes that the applicant has failed to meet his burden of proof in demonstrating that there are compelling reasons that prevent his return to the Pakistan. The applicant has indicated that his brother and nephew were kidnapped and murdered by terrorists in Pakistan, but he has failed to provide any additional details regarding the incident or submit any corroborating evidence. He states that he fears the same fate but has submitted no evidence demonstrating that he will be targeted for harm by terrorists in Pakistan. Although the statements by the applicant are relevant and have been taken into consideration, little weight can be afforded them in the absence of supporting evidence. *Matter of Kwan*, 14 I & N Dec. 175 (BIA 1972) (“Information in an affidavit should not be disregarded simply because it appears to be hearsay; in administrative proceedings, that fact merely affects the weight to be afforded it.”). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Likewise, counsel’s assertion that the applicant will be persecuted for his moderate Islamic beliefs is not probative. Without documentary evidence to support a claim, the assertions of counsel will not satisfy the applicant’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. He has failed to establish that there are compelling reasons preventing his return to Pakistan. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.