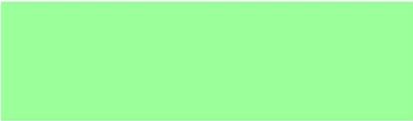


U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



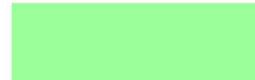
U.S. Citizenship  
and Immigration  
Services

(b)(6)



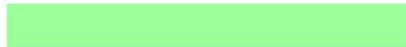
DATE: Office: NATIONAL BENEFITS CENTER

FILE:



**MAY 24 2013**

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: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron M. Rosenberg".

Ron M. Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Philippines 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)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(i).

The director denied the application for adjustment of status after determining that the applicant had failed to demonstrate that compelling reasons prevent his return to the Philippines. The director also noted that the U.S. Department of State issued its opinion on September 9, 2012, recommending that the applicant's adjustment of status be denied because the applicant has not presented compelling reasons that prevent his return to the Philippines.

On appeal, the applicant submits a statement and country condition reports and information on the Philippines relating to the plight of Philippine domestic workers in Jordan and online news articles on the efforts of the Philippine government to deal with the problem.

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 [Department of Homeland Security] 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 [Department of Homeland Security] 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 [Department of Homeland Security], in its discretion, may record the alien's lawful admission for permanent residence as of the date [on which] the order of the [Department of Homeland Security] approving the application for adjustment of status is made. 8 U.S.C. § 1255b(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 reviews 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 of the 1957 Act. The applicant was admitted to the United States as an A-1 nonimmigrant and was employed with the [REDACTED] as Vice Consul from November 26, 2005 until January 30, 2009. The applicant applied for adjustment of status on February 12, 2009. Per the requirements of section 13(a) of the 1957 statute, the applicant was admitted to the United States pursuant to 101(a)(15)(A)(i) of the Act but no longer held that status at the time he filed this application for adjustment on February 12, 2009.

The AAO concurs with the director's determination that the applicant has failed to establish compelling reasons that render him and his family unable to return to the Philippines. As referenced 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. Section 13 requires that an applicant for adjustment of status under this provision have "compelling reasons demonstrating that the alien is *unable* to return to the country represented by the government which accredited the" applicant. (Emphasis added). The term "compelling" must be read in conjunction with the term "unable" to correctly interpret the meaning of the words in context. Thus, reasons that are compelling are those that render the applicant unable to return, rather than those that merely make return undesirable or not preferred from the applicant's perspective.

According to the American Heritage Dictionary, Fourth Edition, the plain meaning of the term "unable" is "lacking the necessary power, authority, or means." Thus, the "compelling reasons" standard is not a merely subjective standard. Aliens seeking adjustment of status under Section 13 generally assert the subjective belief that their reasons for remaining in the United States are compelling, or that it is

interesting or attractive to them to remain in the United States rather than return to their respective countries.

In the applicant's personal statement, dated April 18, 2009, the applicant noted that he joined the [REDACTED] in 2000 and that in 2002, he was assigned to the [REDACTED] in Jordan until 2005, when he was transferred to San Francisco, California. The applicant indicated that he served as Third Secretary and Vice Consul, and later as the [REDACTED] and head of the [REDACTED] section. The applicant indicated that at the time he came to Jordan, the primary concern of the mission there was to address the worsening working conditions of the Filipino domestic workers. The applicant stated that he worked closely with the Jordanian government in this matter to offer some protection to foreign domestic workers which resulted in the establishment of a Royal Decree mandating the use of a uniform and standard contract for foreign domestic workers and for the Jordanian Labor Ministry to manage the concerns of agencies involved in the recruitment of foreign domestic workers. With this development, the [REDACTED] in Jordan was able to obtain the approval of the Philippine government in 2004 to establish a [REDACTED] at the Embassy to manage and handle the deployment of Filipino domestic workers there, and a Labor officer was deployed from the Philippines to manage this office. The applicant indicated that the [REDACTED] exercised administrative and strategic responsibility over the Labor office.

The applicant indicated that the [REDACTED] in Jordan appeared to have exploited and mistreated the Filipino domestic workers he was supposed to protect and so he as the [REDACTED] and head of the consular section exercised his authority over the labor office by tightening the requirements for recruiting agencies and protecting the workers. The applicant indicated that his actions "earned the ire of the [REDACTED]. He wasted no time and in a hostile manner confronted me and verbally threatened me and my family with harm. He made it clear to me in certain terms of his capability in dealing with me in the most extreme manner possible." The applicant claims that the [REDACTED] repeated the hostile confrontation about one month later "as if to make sure that I clearly understood what he meant and what he can do to me." The applicant also claims that this [REDACTED] is politically connected. The applicant fears that returning to the Philippines poses a danger to him and his family because of his role in the establishment of the Labor Office and the personal knowledge of the events that transpired in Jordan with the [REDACTED]. The applicant declares "I have a very strong reason to believe, and fear that I may be 'silenced' because of the knowledge that I have. It might not come from the [REDACTED], but from business interests that have a stake in labor deployment not only in Jordan but for the entire Middle East market."

On appeal, the applicant reiterates his fear of harm because of his role in dealing with trafficking of Filipino workers in Jordan when he was assigned to the [REDACTED] through 2005. The applicant claims that he sent many confidential cables to the home office, identifying specific individuals that were part of the syndicate that recruited and trafficked Filipino workers, many of who are well-placed and have contact with the Philippine government. The applicant claims that he received many reports from his contact in Manila that he was "hot on the list of [REDACTED] and they warned him to "watch my back." The applicant indicated that the continued inaction of the Philippine government to wipe out the syndicated network of traffickers in the Philippines poses a threat to him and his family on their return to the Philippines.

The applicant cited few incidents that happened during his term in Jordan as evidence of the genuineness of his fear of harm if he returns to the Philippines. The incidents are (1) [REDACTED]

[REDACTED]

The AAO has reviewed the applicant's statements, as well as the current country condition information on the trafficking of Filipino workers overseas and their mistreatment in Jordan and other places, and online news articles on attempts by certain politicians to investigate the trafficking of Filipino workers. The AAO acknowledges that the applicant was stationed in Jordan in the early 2000s and that his office may have acted to address the issues of Filipino domestic workers in Jordan. However, the applicant has not provided compelling reasons related to political changes in the Philippines that render him as a [REDACTED] or at risk of harm following political upheavals in the country represented by the government which accredited him. The AAO finds that the record does not include evidence showing that the applicant is at greater risk of harm because of his specific past government employment, political activities or other related reasons, including his involvement in passport fraud detection and prevention. 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)).

The AAO acknowledges the applicant's subjective fear due to his work at the [REDACTED] in Jordan in the early 2000s relating to the plight of Filipino domestic workers in Jordan; however the applicant was transferred to the United States in 2005. He continued his service for the Philippine government as [REDACTED] in San Francisco, California until his voluntary separation from the Philippine government. The record contains no information regarding any incident against the applicant or his family since his departure from Jordan in 2005. The record contains no evidence of any fallout against the applicant for his role in exposing the purported syndicated network of traffickers in the Philippines. The AAO does not find that the applicant has substantiated that he would be a specific target of the human traffickers he investigated while he worked at the Philippine [REDACTED] in Jordan. No evidence has been presented that individuals involved in the investigation have been the target of these criminals. It is also noted that the Department of State has recommended the denial of the applicant's adjustment of status application under Section 13 and indicated that it does not believe that the applicant has presented compelling reasons that prevent his return to the Philippines. *See* Interagency Record of Request (Form I-566). The record does not include the evidence necessary

to establish that there are compelling reasons that prevent the applicant's return to the Philippines. Accordingly, the applicant has failed to meet his burden of proof in this regard. As the applicant has not established that there are compelling reasons that prevent his return to the Philippines, the question of whether his adjustment of status would be in the U.S. national interest need not be addressed.

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 the Philippines. 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.