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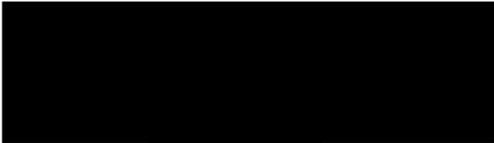
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

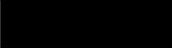


U.S. Citizenship
and Immigration
Services

A3



FILE:



Office: WASHINGTON DISTRICT

Date:

APR 22 2010

IN RE:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Washington, D.C. The Administrative Appeals Office (AAO) summarily dismissed the subsequently filed appeal. The AAO granted a subsequently filed motion to reopen and reconsider and affirmed the field office director's decision denying the application. The matter is now before the AAO on a second motion to reopen and reconsider. The motion will be granted and the application will be denied.

The applicant is a national of Ecuador 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 field office director denied the application for adjustment of status after determining that the applicant had failed to demonstrate that compelling reasons prevent his return to Ecuador and had failed to establish why his adjustment of status would be in the national interest of the United States. In a June 11, 2009 decision, the AAO granted the applicant's motion to reopen the matter, considered the evidence submitted, and affirmed the field office director's decision to deny the application.

On second motion, counsel for the applicant submits a statement from the applicant's wife and other information in support of the wife's statement, to demonstrate that the applicant's family has been specifically targeted for reprisals by the current government of Ecuador. Counsel asserts that the family is definitely at risk if forced to return to Ecuador.

In the undated and unsigned statement purportedly from the applicant's wife, the applicant's wife indicates that she had applied for a position for the City of Cuenca's Municipal Schools' Bilingual Education Project and had been awarded the position to start on September 1, 2009. The applicant's wife also states: that she traveled to Ecuador on June 8 and met with the consultancy team on June 15; that during the meeting she informed the director that her sister-in-law was the former president of Ecuador; that she also acknowledged the disagreement her sister-in-law, who operated a weekly television program, and the current Ecuadorian president had regarding the independence of the press; that when she expressed her view that there was no need for the president to shut down a television or radio channel, the director told her the current Ecuadorian president's measures were for the good of the country; and that after their conversation ended she felt that she had said something that she should not have said. The applicant's wife further indicates that on the 29th (month and year unspecified) she received a letter at her parents' home where she was staying, indicating that the position that had been offered to her had been suspended as the president had canceled the funds. The applicant's wife notes that she could not take legal action against the Municipality or its Office of Education as her contract would not have started until September and that she strongly believes that her position was canceled because of her sister-in-law's open statements against the president. The record on motion includes the advertisement for the consultant's position, the requirements of the position, the offer of employment, and a letter suspending the position since the president had canceled funds for the position.

The AAO has considered the applicant's wife's statement and the documentation submitted in support of her statement. The AAO does not find, however, anything in the record that substantiates the applicant's wife's speculation that her position was canceled or suspended because of the actions of her sister-in-law. The AAO observes that the letter informing the applicant's wife that the offered position had been suspended indicates that she would be contacted if the funds became available in the future.

More importantly, the information submitted on motion does not reflect that the current government of Ecuador has precluded the applicant or his wife from returning to Ecuador. Moreover, there is nothing in the record on motion that establishes that the democratically changed government in Ecuador precludes the applicant's return based on the applicant's actions while Consul General of Ecuador in San Francisco, California, from November 1996 to June 10, 1997 or any political actions on his part since that time. The AAO observes, once again, that the applicant, his wife, and his sister-in-law have all returned to Ecuador since June 1997. The AAO further observes that even if the applicant or his wife may have difficulty obtaining a job commensurate with their education, experience, and desire to work for the Ecuadorian government, hardship in finding work or in adapting to a different country does not demonstrate compellingly that either the applicant or his family is unable to return to Ecuador.

The eligibility for relief pursuant to section 13 is limited and ineligibility for section 13 relief does not preclude the applicant from pursuing other benefits provided under the immigration laws of the United States. In this matter the information submitted on motion does not include further testimonial or documentary evidence that establishes that the applicant will face a greater risk of harm because of his past government employment or political activities. There is no substantive evidence of a specific threat against the applicant or his family. There is insufficient information demonstrating that the applicant would be subjected to threats or would be at greater risk of harm from the Ecuadorian government due to political changes in Ecuador 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. Here, although the applicant's wife presents new information regarding her return to Ecuador, the evidence on motion does not present new evidence that establishes that the applicant is precluded from returning to Ecuador because of any action or inaction on the part of the government of Ecuador or that he or his family would be subjected to harm as required under Section 13. Accordingly, the AAO's previous decision remains undisturbed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden.

ORDER: The previous decision of the AAO, dated June 11, 2009, is affirmed. The application is denied.