



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE **SEP 19 2013** Office: NATIONAL BENEFITS CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident Pursuant to Section 13 of the Immigration and Nationality Act of 1957, Pub. L. No. 85-316, 71 Stat. 642, as amended.

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

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

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron M. Rosenberg
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Cameroon who is seeking to adjust her 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 amended, 95 Stat. 1611, 8 U.S.C. § 1255b, as a derivative dependent of an alien who performed diplomatic or semi-diplomatic duties under section 101(a)(15)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(A)(ii).

The director denied the application for adjustment of status after determining that the applicant had failed to demonstrate that compelling reasons prevent her return to Cameroon. The director also noted that the U.S. Department of State issued its opinion on February 2, 2013, recommending that the applicant's request for adjustment of status in the United States be denied because she provided no compelling reasons why she cannot return to Cameroon. *See Director's Decision*, dated March 4, 2013.

On April 3, 2013, counsel for the applicant submits a Form I-290B, Notice of Appeal or Motion, asserting that the Service did not conduct a proper interview on the applicant's case, which prevented a thorough review of the applicant's eligibility for adjustment of status. Counsel states that the applicant has compelling reasons as to why she cannot return to Cameroon. Counsel submits a brief, additional statement from the applicant and country condition information on Cameroon in support of the appeal.

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.

A review of the record establishes the applicant's eligibility for consideration under Section 13 of the 1957 Act. The applicant was admitted into the United States on September 10, 1988, as a derivative dependent of her father, [REDACTED], who served as a [REDACTED] at the Cameroon Embassy in Washington, D.C. until his status was terminated on November 2, 2006. The record shows that the applicant's father performed duties that were supportive of the Ambassador's diplomatic duties, and as such his duties were semi-diplomatic in nature. The applicant filed the Form I-485, Application to Register Permanent Residence or Adjust Status, on May 5, 2008. Therefore, per the requirements of section 13(a) of the 1957 statute, the applicant was admitted to the United States in diplomatic status under section 101(a)(15)(A)(ii) of the Act as a derivative dependent of her father, but no longer held that status at the time of her application for adjustment of status on May 5, 2008.

The issues before the AAO in the present matter are, therefore, whether the record establishes that the applicant has compelling reasons that prevent her return to Cameroon and that her adjustment of status would serve U.S. national interests – requirements set forth in section 13(b) of the 1957 Act.

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).

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 and 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 legislative history of Section 13, including the 1981 amendment adding the term "compelling reasons," 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.

What Section 13 requires is that the reasons provided by the applicant demonstrate compellingly that the applicant is unable to return to the country represented by the government which accredited the applicant. The AAO finds that a review of the totality of the Section 13 legislative history supports the plain meaning of the language in Section 13 that those eligible for adjustment of status under Section 13 are those diplomats that have been, in essence, rendered stateless or homeless by political upheaval, hostilities, etc., and are thus *unable* to return to and live in their respective countries.

In a March 3, 2009 statement, the applicant indicated the reasons she cannot return to Cameroon as the lack of security in her country, her desire to complete her education in the United States and the financial difficulties she would encounter in Cameroon because of limited job opportunities in the country and her inability to speak or understand the “traditional language, French or the broken English.” The applicant stated that her parents were concerned about the chastity of their children in Cameroon because of rapists, molesters, kidnapers and diseases. She claims that her father accepted the position at the Cameroon Embassy in Washington so that he can move the family to the United States. The applicant indicated that the current situation in her country with respect to security has not gotten better. Another reason the applicant stated as to why she cannot return to her country is that she would like to continue her education in the United States because of limited educational opportunities for her in Cameroon due in part to her inability to speak or understand French, the official language in her country. The applicant further stated that the insecurity and instability in her country makes it unsafe for her to return there.

On appeal, the applicant submitted another statement dated March 28, 2013. In that statement, the applicant reiterated some of the reasons she stated in her March 3, 2009 statement as to reasons why she cannot return to Cameroon. In addition, the applicant claims that the government of Cameroon mistreated her father and caused his untimely death in 2006. The applicant stated that the Ambassador, whom her father served under was accused of embezzlement and is currently in jail in Cameroon. The applicant declared “the fact that my father’s former employer is now imprisoned on embezzlement charges, and that my father was his accountant, does not look good. . . . As his daughter, I believe I would also be in danger if I returned.” Counsel on appeal asserts that the applicant is unable to return to Cameroon because of her father’s previous position with the government and because her father had enemies in the Cameroon government. Counsel also asserts that the fact that the Ambassador the applicant’s father worked for has now been imprisoned for suspected embezzlement will “heighten the danger to anyone associated with him.” Counsel further asserts that as Anglophones, the applicant and her family would be marginalized by the Francophone ruling party in Cameroon.

The AAO has reviewed the applicant’s statements, counsel’s brief on appeal and the country condition information submitted on appeal and find the evidence insufficient to establish that the applicant has

compelling reasons that prevent her return to Cameroon. The AAO notes the applicant's desire to remain in the United States, however, the applicant has failed to demonstrate that she is unable to return to Cameroon based on reasons related 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. In this case, the applicant has provided no substantive evidence to establish that she is at greater risk of harm in the hands of the Cameroon government or other entities there because of her father's past employment with the government of Cameroon. Counsel and the applicant claim that a former Ambassador who served at the same time as the applicant's father has been imprisoned on suspicion of embezzlement and that the applicant may be targeted by the government of Cameroon because of her father's duties and responsibilities at the Cameroon Embassy in Washington, D.C. Counsel and the applicant, however, have failed to provide substantive evidence in support of their assertions. The AAO acknowledges the applicant's desire to remain in the United States for her personal safety and for her continued education. The AAO also acknowledges that the applicant may encounter difficulties adjusting to living in Cameroon after a prolonged period of absence from the country. However, the general inconveniences and hardships associated with relocating to another country are not compelling reasons under Section 13. Likewise, the general threat of insecurity in a country is not a sufficiently compelling reason under Section 13 as the threat is not specifically directed at the applicant but to the general population. In this case, the applicant has provided no substantive evidence that she will be specifically targeted by the government of Cameroon or other entities in the country because of her father's past government employment, political activities or other related reasons. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner'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). 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)).

Accordingly, the AAO finds that the applicant has failed to meet her burden of proof in demonstrating that there are compelling reasons that prevent her return to Cameroon for the purposes of Section 13.¹ As the applicant has failed to demonstrate that there are compelling reasons preventing her return to Cameroon, the question of whether her 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. She has failed to establish that there are compelling reasons that preclude her return to Cameroon. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that he or she is eligible for adjustment of status. The applicant has failed to meet that burden.

¹ It is also noted that the U.S. Department of State has recommended that the applicant's request for adjustment of status be denied because the applicant has presented no compelling reasons why she is unable to return to Cameroon. See Interagency Record of Request (Form I-566).

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NON-PRECEDENT DECISION

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Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.