



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

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

MATTER OF C-C-

DATE: DEC. 17, 2015

APPEAL OF NATIONAL BENEFITS CENTER DECISION

APPLICATION: FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE
OR ADJUST STATUS

The Applicant, a native and citizen of Colombia, seeks to adjust status to lawful permanent resident. *See* Section 13 of the Act of September 11, 1957, Pub. L. No. 85-316, 71 Stat. 642, *amended by* Pub. L. No. 97-116, 95 Stat. 161 (1981), 18 U.S.C. § 1255b. The Director, National Benefits Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the application for adjustment of status after determining that the Applicant did not demonstrate that compelling reasons prevent her return to Colombia. The Director noted that the Department of State issued its opinion on January 7, 2014, advising that it could not favorably recommend this case, as the Applicant did not present compelling reasons that prevent her return to Colombia.

On appeal, the Applicant asserts that she has established compelling reasons prevent her return to Colombia. Specifically, she asserts that she has been threatened on account of her political opinion and that her fear of persecution is reasonable.

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

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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 individuals 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.

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).

We now turn 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 record reflects that the Applicant entered the United States with A-1 non-immigrant visa on February 24, 2001, to work as a [REDACTED] at the Colombian Consulate in [REDACTED]. The Department of State indicated that her status was terminated on [REDACTED] 2003. Subsequently, on March 11, 2003, the Applicant departed the United States for Colombia. On April 23, 2003, the Applicant was admitted into the United States using her A-1 non-immigrant visa issued on December 18, 2002.

The record indicates that the Applicant filed her Form I-485, Application to Register Permanent Residence or Adjust Status, on November 4, 2004. The record also includes a Form I-589, Application for Asylum and for Withholding of Removal, that she had filed earlier, on April 16, 2004, indicating that the Applicant stopped working at the Consulate General in [REDACTED] 2003. The record also includes a 2005 note from the Applicant requesting withdrawal of her Form I-589. The Applicant's Form I-589 was administratively closed on December 15, 2005.

To support her assertions that compelling reasons prevent her return to Colombia, the Applicant states that after her tour of duty ended, she returned to Colombia for approximately 20 days. She came back to the United States after her apartment in [REDACTED] was broken into and she found graffiti on the wall of

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her living room referring to her political views and telling her to leave. The Applicant states that she also received a threatening note from a paramilitary group in her parents' garage. She departed Colombia after police advised that she should leave. She states that her parents continued to receive phone calls from unidentified individuals claiming to have studied with her in college, approximately once a month, until a few months before her adjustment interview.

The Applicant states that she received threats because of her political affiliation with the former ruling party and she fears that she will be targeted as a political opponent of the current government. Upon review of the Applicant's sworn statement before a USCIS immigration officer on September 23, 2008, her assertions on appeal, as well as the current country conditions in Colombia, we find that she has not provided compelling reasons related to political changes in Colombia that render her, as a foreign representative, "stateless or homeless" or at risk of harm following political upheavals in the country represented by the government which accredited her. The record does not include evidence showing that the Applicant is at greater risk of harm because of her specific past government employment, political activities, or other related reasons, including her employment as a [REDACTED]

The Applicant's fears do not amount to compelling reasons. We also note that the Applicant presents no evidence to corroborate her claim that the current government of Colombia or any affiliated entities would place her at risk of harm.

As set forth in the Director's decision, 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. The term "compelling" must be read in conjunction with the term "unable" to correctly interpret the meaning of the words in context. The documentation provided does not present compelling reasons that prevent the Applicant from returning to Colombia. As noted above, the Applicant returned to Colombia on two occasions after her tour of duty ended. She has not shown that she could not relocate and find suitable employment without facing harm. The record does not establish that the Applicant, as a diplomat or foreign representative, would be rendered "stateless or homeless" or be placed at risk of harm following political upheavals in her country.

The Applicant has not met her burden of proof in this regard. As the Applicant has not established that compelling reasons prevent her return to Colombia, the question of whether adjustment of her status would be in the national interest need not be addressed.

For the reasons discussed above, we find that the Applicant is not eligible for adjustment under Section 13. She has not established that compelling reasons prevent her return to Colombia. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the Applicant to establish that she is eligible for adjustment of status. The Applicant has not met that burden.

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ORDER: The appeal is dismissed.

Cite as *Matter of C-C-*, ID# 12232 (AAO Dec. 17, 2015)