



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

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

MATTER OF M-R-R-

DATE: JAN. 13, 2016

APPEAL OF NATIONAL BENEFITS CENTER DECISION

APPLICATION: FORM N-470, APPLICATION TO PRESERVE RESIDENCE FOR
NATURALIZATION PURPOSES

The Applicant seeks to preserve his residence for naturalization purposes under section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b). The National Benefits Center Director denied the application. The Applicant has been a lawful permanent resident since May 29, 2007. He filed a Form N-470, Application to Preserve Residence for Naturalization Purposes, on September 15, 2014. The matter is now before us on appeal. The appeal will be dismissed.

I. ELIGIBILITY TO PRESERVE RESIDENCE FOR
NATURALIZATION PURPOSES

A. The Law

Section 316(a)(1) of the Act, 8 U.S.C. § 1427(a)(1), provides in pertinent part that:

No person . . . shall be naturalized, unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time[.]

Section 316(b) of the Act provides, in pertinent part that:

[A]bsence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the application for naturalization, or during the period between the date of filing the application and the date of any hearing under section 1447(a) of this title, shall break the continuity of such residence, unless the applicant shall establish to the satisfaction of the Attorney General that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General that his absence from the United States for such period has been for such purpose.

B. Analysis

The issue in the present matter is whether the Applicant has established that he is eligible for approval of the Form N-470. On the Form N-470, in Part 1, regarding the purpose of his absence from the United States, the Applicant left it blank and wrote “NA.” The Director sent a request for evidence (RFE) on November 7, 2014, requesting additional evidence to establish the Applicant has “qualifying employment in a specific job with the U.S. Government, American institution of research, private sector, religious organization, or public international organization.”

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In response to the RFE, the Applicant submitted a letter from the Director of Human Resources, [REDACTED] dated November 19, 2014, that certified on “September 14, 2014, [the Applicant] has started his job as an instructor in the Department of Civil Engineering at [REDACTED]” The Applicant also submitted copies of correspondence to several Universities in the United States in search for a job.

On appeal, the Applicant explained that “[f]or the past few years, I have done my best to find a faculty position in any American university, college, or institution. Unfortunately, I had no luck in that. As a result, I worked as a Professor of Civil Engineering at [REDACTED] Jordan.”

The Applicant also explained that he would continue to do unpaid research for the [REDACTED] when living in Jordan. The Applicant explained that he asked a Professor from the [REDACTED] to write a letter for him to certify that he will be performing research abroad but had not yet received a response .

Accordingly, as the applicant in this matter has not provided any evidence that his absence from the United States is on behalf of the U.S. Government; an American institution of research to perform scientific research; an American firm or corporation, or a subsidiary thereof, to engage in the development of foreign trade and commerce of the United States; an American firm or corporation to protect the property rights outside the United States of that American firm or corporation engaged in the development of foreign trade and commerce of the United States; a public international organization of which the United States is a member; or a denomination or mission having a bona fide organization in the United States in which the Applicant performs ministerial or priestly functions or his sole capacity is of a clergyman, missionary, or brother. The application was correctly denied by the Field Office Director. Section 316(b) of the Act does not provide any exception to the requirement that the Applicant establish his absence from the United States is in a qualifying employment. Accordingly, the Applicant does not qualify for benefits under section 316(b) of the Act, and the appeal will be dismissed.

II. CONCLUSION AND ORDER

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of M-R-R-*, ID# 15089 (AAO Jan. 13, 2016)