U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-B-S-

DATE: MAR. 6, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

APPLICATION: FORM I-821, APPLICATION FOR TEMPORARY PROTECTED STATUS

The Applicant, a native and citizen of Syria, seeks Temporary Protected Status (TPS). Immigration and Nationality Act (the Act) section 244, 8 U.S.C. § 1254a. TPS provides lawful status and protection from removal for foreign nationals, of specifically designated countries, who timely register (and then periodically re-register) during designated periods, satisfy country-specific residence and physical presence requirements, are admissible to the United States, were not firmly resettled in another country, and are not subject to certain criminal- and security-related bars.

The Director of the Vermont Service Center denied the application, concluding that the Applicant did not submit sufficient evidence to establish that he was not firmly resettled in Saudi Arabia before entering the United States.

On appeal, the Applicant submits additional documents and explains that although he lived in Saudi Arabia with his parents for many years as his father's dependent child, he is now over 18 years of age, has no independent basis to reside there, his re-entry visa is no longer valid, and he is not able to return to Saudi Arabia.

Upon *de novo* review, we will dismiss the appeal. The evidence is insufficient to demonstrate that the firm resettlement bar does not apply.

I. LAW

The Applicant is seeking TPS as a national of Syria. A national of a TPS-designated country is not eligible for TPS if he or she was firmly resettled in another country prior to arriving in the United States. Section 244(c)(2)(B)(ii) of the Act; section 208(b)(2)(A)(vi) of the Act, 8 U.S.C. § 1158(b)(2)(A)(vi); 8 C.F.R. § 244.4(b).

A person is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes:

(a) That his or her entry into that country was a necessary consequence of his or her flight from persecution, that he or she remained in that country only as long as

was necessary to arrange onward travel, and that he or she did not establish significant ties in that country; or

(b) That the conditions of his or her residence in that country were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled. In making his or her determination, the asylum officer or immigration judge shall consider the conditions under which other residents of the country live; the type of housing, whether permanent or temporary, made available to the refugee; the types and extent of employment available to the refugee; and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation that includes a right of entry or reentry, education, public relief, or naturalization, ordinarily available to others resident in the country.

8 C.F.R. § 208.15.

The burden of proof is on the Applicant to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). To meet the burden of proof, the Applicant must provide supporting documentary evidence of eligibility apart from the Applicant's own statements. *Id.*

II. ANALYSIS

The issue on appeal is whether the Applicant has been firmly resettled in another country prior to arriving in the United States.

The record reflects that the Applicant was admitted to the United States in August 2012 as a nonimmigrant academic student (F-1). In 2016, he filed Form I-821, Application for Temporary Protected Status, representing that he was a citizen of Syria who resided in Saudi Arabia as a temporary resident from 1997 through 2012. As this indicated that the Applicant may have been firmly resettled in Saudi Arabia, the Director issued a request for evidence (RFE) asking him to submit additional information about his immigration status in any country he resided in prior to entering the United States and evidence that he was not firmly resettled there, including proof that he was not permitted to enjoy the same privileges as other individuals who lived permanently in the same country, such as freedom to worship, work, travel, live where he wished, attend school, and obtain medical care. Because the Applicant did not provide such evidence or an explanation of his immigration status in Saudi Arabia in response to the RFE, the Director found that he did not meet the burden of proof to demonstrate that the firm resettlement bar did not apply in his case.

On appeal, the Applicant submits copies of his re-entry visa and his parents' resident identity cards, and states that he may no longer return to Saudi Arabia because the re-entry visa is now expired and he has no independent basis to obtain a resident permit.

We have reviewed the entire record and find that this evidence is insufficient to support the Applicant's claim he was not firmly resettled in Saudi Arabia. Accordingly, the Applicant has not overcome the reason for the denial of his TPS request.

In *Matter of A-G-G-*, 25 I&N Dec. 486 (BIA 2011), the Board of Immigration Appeals (Board) set forth a four-step framework for determination of firm resettlement under section 208(b)(2)(A)(vi) of the Act and 8 C.F.R. § 208.15:

> (1) The government bears the burden of presenting *prima facie* evidence of an offer of firm resettlement by producing direct evidence of governmental documents indicating an his or her ability to stay in a country indefinitely or indirect evidence, if of a sufficient level of clarity and force;
> (2) the foreign national can rebut the *prima facie* evidence by showing by a preponderance of the evidence that such an offer has not been made or that he or she would not qualify for it;
> (3) the totality of the evidence presented by both parties is considered to determine whether the foreign national has rebutted the evidence of an offer of firm resettlement; and
> (4) if the foreign national is found to have firmly resettled, the burden shifts to the foreign national to establish that an exception to firm resettlement applies by a preponderance of the evidence.

1. Offer of Firm Resettlement

The Applicant states that he held resident status in Saudi Arabia as his father's dependent child from 1997 until he left for the United States in 2012. The record includes copies of his parents' resident identity cards valid through 2021. Moreover, the Applicant's re-entry visa references his *iqama* valid until July 2018. *Iqama* is an employment-based residence permit, issued to the principal holder and his dependent spouse and children.[1] A facially valid permit to reside in a third country constitutes prima facie evidence of an offer of firm resettlement pursuant to section 208(b)(2)(A)(vi) of the Act. *Matter of D-X- & Y-Z*, 25 I&N Dec. 664 (BIA 2012). Here, the record shows that the Applicant was issued such permit by the government of Saudi Arabia, and that it does not expire until July 2018. Moreover, the fact that the Applicant resided in Saudi Arabia with his parents for 15 years before he came to the United States is indicative of the permanent nature of his residence there. Accordingly, the first step of the firm resettlement framework has been met.

[1] *Residence Permit (Iqama)*, Rules & Regulations, Ministry of Interior, Kingdom of Saudi Arabia, https://www.moi.gov.sa.

2. Rebuttal by the Applicant

In the second step of the firm resettlement analysis, the Applicant can rebut the *prima facie* evidence of an offer of firm resettlement by showing that such an offer has not been made or that he would not qualify for it. The evidence he submits, however, is insufficient to demonstrate either scenario. The Applicant confirms he was a resident of Saudi Arabia and had permission to reside there as his father's dependent, but claims that his resident status terminated on his 18th birthday and, as his re-entry visa had also expired, he is no longer able to return to Saudi Arabia. The Applicant further states that to maintain lawful residence in Saudi Arabia at this time, he would have to find an employer willing to sponsor him and obtain a residence permit on that basis. The evidence is insufficient to support these statements.

While a child of the principal *iqama* holder must obtain a separate residence permit and pay the applicable charges after he or she turns 18 years of age,[2] the Applicant has not shown that obtaining such permit requires proof of employment. Moreover, the fact that the Applicant's re-entry visa or residence permit may have expired after he last entered the United States does not affect a firm resettlement determination. *See Sultani v. Gonzales,* 455 F.3d 878, 883–84 (8th Cir. 2006) (holding that "the possibility that [asylum applicants] may not be permitted to return to [a third country] because they allowed their status in that country to expire is irrelevant to the finding that they were firmly resettled in [that country]"); *Firmansjah v. Gonzales,* 424 F.3d 598, 604 (7th Cir. 2005) (holding that expiration of permanent residency in a third country does not preclude a finding that the individual was firmly resettled in that country prior to entering the United States). Thus, the Applicant has not shown that the government of Saudi Arabia did not make an offer of firm resettlement to him, or that he did not qualify for it.

3. Totality of the Evidence

Because the record reflects that the Applicant had a residence permit in Saudi Arabia, he confirms he lived there with his parents as a lawful resident from 1997 through 2012, and the documents he provides are insufficient to rebut this information, we find the totality of the evidence shows the Applicant was firmly resettled in Saudi Arabia before he arrived in the United States.

4. Applicant's Burden to Show Exception

Pursuant to the firm resettlement adjudication framework outlined in *Matter of A-G-G-*, *supra*, once a determination has been made based on the totality of the evidence that the Applicant has received an offer of firm resettlement in another country, the burden shifts to the Applicant to establish that an exception to firm resettlement applies pursuant to 8 C.F.R. § 208.15(a) or (b).

The Applicant does not claim or submit evidence that following his departure from Syria he remained in Saudi Arabia only so long as was necessary to arrange onward travel and that he did not

[2] *Residence Permit (Iqama)*, *supra.*

establish significant ties there; to the contrary: he states he grew up in Saudi Arabia, attended school there, and his parents continue to reside in Saudi Arabia at this time. He therefore has not shown that he meets the firm resettlement exception in 8 C.F.R. § 208.15(a).

The Applicant claims, however, that his resident status in Saudi Arabia was temporary, that he faced discrimination, and that he did not have the same privileges as other permanent residents, other than to live there and to attend school. These statements alone, however, are insufficient to show that the Saudi Arabian authorities substantially and consciously restricted the Applicant's rights, as required to establish the firm resettlement exception described in 8 C.F.R. § 208.15(b). Accordingly, under the fourth and final step of the *Matter of A-G-G-* framework, we find that the Applicant has not demonstrated by a preponderance of the evidence that an exception to firm resettlement applies in his case.

III. CONCLUSION

When viewed in its totality, the evidence in the record demonstrates that the Applicant is subject to the firm resettlement bar pursuant to the criteria described in 8 C.F.R. § 208.15 and the Board's decisions in *Matter of A-G-G-* and *Matter of D-X- & Y-Z-*. Accordingly, he is ineligible for TPS as a foreign national who was firmly resettled in another country prior to his arrival in the United States.

ORDER: The appeal is dismissed.

Cite as *Matter of F-B-S-*, ID# 946867 (AAO Mar. 6, 2018)