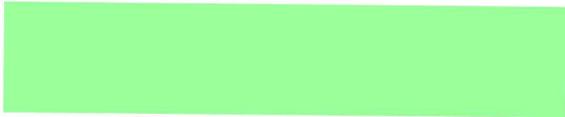


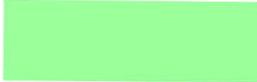


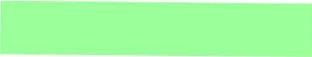
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **SEP 13 2013** Office: NATIONAL BENEFITS CENTER

FILE: 

IN RE: Applicant: 

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.

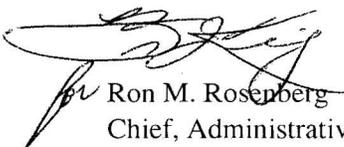
ON BEHALF OF APPLICANT: SELF-REPRESENTED

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 Pakistan 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 amended, 95 Stat. 1611, 8 U.S.C. § 1255b, as 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 his return to Pakistan. 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 the applicant presented no compelling reasons why he cannot return to Pakistan. *See Director's Decision*, dated February 20, 2013.

The director also denied the application of the applicant's spouse [REDACTED], his son [REDACTED] and his other son [REDACTED] who each submitted an Application to Register Permanent Residence or Adjust Status (Form I-485) under Section 13 as dependent derivatives of the applicant. The director issued separate decisions denying these applications. These dependents each filed a separate Form I-290B, Notice of Appeal or Motion. The AAO will issue a separate decision for each of the dependents.

On March 22, 2013, the applicant submitted a Form I-290B, Notice of Appeal or Motion, and a statement indicating that he was appealing the decision of the director to deny his adjustment of status under Section 13 of the Act. The applicant submits additional statement in support of the appeal.

The record includes but is not limited to, statements from the applicant and copies of news articles on Pakistan and a copy of United States Department of State OSAC 2012 Crime and Safety Report on Pakistan.

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 October 28, 2007 in an A-2 nonimmigrant status and served as [REDACTED] in Houston, Texas until his status was terminated by the U.S. Department of State on December 16, 2011. See [REDACTED] dated April 2, 2012; See [REDACTED]. The applicant's duties included but were not limited to facilitating business matters between Pakistan and the United States. In this capacity, the applicant worked closely with the [REDACTED] in support of the [REDACTED]; diplomatic duties. The applicant's duties are therefore Semi-Diplomatic in nature. The applicant filed the Form I-485, Application to Register Permanent Residence or Adjust Status, on December 27, 2011. 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 but no longer held that status at the time of the submission of his application for adjustment of status on December 27, 2011.

The issues before the AAO in the present matter are, therefore, whether the record establishes that the applicant has compelling reasons that prevent his return to Pakistan and that his 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).

At his adjustment interview on April 2, 2012, the applicant stated under oath before an immigration officer that the compelling reason that prevents his return to Pakistan is his children's education in the United States. The applicant did not state any other reason why he is unable to return to Pakistan. On appeal, the applicant provided three reasons why he is unable to return to Pakistan. The applicant indicates that the "law and order situation" in Pakistan is currently bad. The applicant states that because Pakistan and the United States are allies in the war against terror, terrorist organizations in Pakistan consider overseas Pakistani officials in the United States and the United Kingdom as their enemy. The applicant fears that as a returning Pakistani overseas official from the United States, he and his family would be kidnapped and killed. In support of this claim, the applicant indicates that he and his family traveled to Pakistan in June 2012 and had to live an isolated and confined life in Pakistan. He and his children left Pakistan after a short stay in the country because they could not live freely. The applicant indicates that he wants to remain in the United States for his children to continue their education here. Finally, the applicant states that a cardiac defibrillator was implanted in his heart which requires regular monitoring, and he claims that he needs to remain in the United States because the Pakistani medical professionals are "neither qualified nor capable of treating complex heart patients like me."

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 this case, the AAO has reviewed the applicant's statements, and the country condition information he submitted on appeal and finds the evidence insufficient to establish that the applicant has compelling reasons that prevent his return to Pakistan. The AAO acknowledges the violent situation and lack of security in Pakistan caused in part by the political instability and by terrorist and other extremist groups operating in Pakistan. The AAO also acknowledges the risks of living in certain areas of Pakistan as the turmoil and violence by extremist and other terrorist groups in Pakistan persists. However, the applicant has not provided substantive evidence to establish that he and his family would be targeted by these groups or by the current government of Pakistan because of his past employment with the government of Pakistan. The applicant has failed to provide substantive evidence of a specific terrorist threat against him or his family because of his past diplomatic duties for the government of Pakistan in the United States

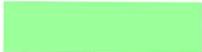
The AAO notes the applicant's desire to remain in the United States, however, the applicant has failed to demonstrate that he is unable to return to Pakistan based on compelling reasons related to political changes that render diplomats and foreign representatives "stateless or homeless" or at risk of harm following political upheavals in the country represented by the government which accredited them. The AAO also notes that the applicant's children would encounter some difficulties in adjusting to living in Pakistan 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 terrorism is not a sufficiently compelling reason under Section 13. The applicant has provided no evidence that he will be specifically targeted because of his past government employment, political activities or other related reasons. 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)).

The record is insufficient to establish that the applicant in his role as a returning diplomat would be at greater risk of harm because of his past government employment, political activities or other related reason. The applicant's desire for his children to be educated in the United States and to create a better life for his family in the United States are not considered compelling reasons that preclude his return to Pakistan under Section 13 of the Act.

Accordingly, the AAO finds that the applicant has failed to meet his burden of proof in demonstrating that there are compelling reasons that prevent his return to Pakistan for the purposes of Section 13. As the applicant has failed to demonstrate that there are compelling reasons preventing his return to Pakistan, the question of whether his adjustment of status would be in the 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. He has failed to establish that there are compelling reasons that preclude his return to Pakistan. 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.

Accordingly, the appeal will be dismissed.



(b)(6)

*NON-PRECEDENT DECISION*

Page 6

**ORDER:** The appeal is dismissed.