

MATTER OF RAHMAN
In Deportation Proceedings

A-17076149

Decided by Board August 4, 1978

A lawful permanent resident who was excludable under section 212(a)(22) of the Immigration and Nationality Act, 8 U.S.C. 1182(a)(22), as having left the United States to evade military service, was within the Presidential Pardon of January 24, 1977, as implemented by Executive Order 11967 in that he had reentered the United States as a returning lawful permanent resident before June 1, 1978, and deportation proceedings ordered terminated.

CHARGE:

Order: Act of 1952—Section 241(a)(1) [8 U.S.C. 1251(a)(1)]—Excludable at time of entry under section 212(a)(22) [8 U.S.C. 1182(a)(22)]—departed to avoid training or service in Armed Forces

ON BEHALF OF RESPONDENT: Harry Kobel, Esquire
2156 City National Bank Building
Detroit, Michigan 48226

BY: Milhollan, Chairman; Appleman and Maguire, Board Members. Board Member Farb abstained from consideration of this case.

The respondent, a native of Pakistan admitted to the United States as a lawful permanent resident on July 15, 1966, left the United States on July 19, 1967, and reentered on July 17, 1968, by presenting his I-151. In the decision of an immigration judge dated January 21, 1975, the respondent was found deportable under section 241(a)(1) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(1), as an alien excludable at entry under section 212(a)(22) of the Act, 8 U.S.C. 1182(a)(22), in that he had departed from and remained outside of the United States to evade military service. An appeal to this Board was dismissed in a decision dated September 17, 1975. The United States Court of Appeals for the Sixth Circuit affirmed our decision in an unpublished opinion, and the respondent appealed to the United States Supreme Court. On February 22, 1977, the Supreme Court remanded the case to the Sixth Circuit Court of Appeals for reconsideration in light of the Acting Solicitor General's representation that the respondent's case was affected by the Presidential Proclamation of Pardon, Pres. Proc. No.

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4483, 42 Fed. Reg. 4391 (1977), reprinted in 50 U.S.C.A. App. § 462 (1978), and the accompanying Executive Order, Exec. Order No. 11967, 42 Fed. Reg. 4393 (1977), reprinted in 50 U.S.C.A. App. §462 (1978). *Rahman v. INS*, 429 U.S. 1084 (1977). On April 8, 1977, the Court of Appeals remanded the record to us for reconsideration. The proceedings will be terminated.

On January 21, 1977, President Carter signed Proclamation No. 4483 granting a pardon to persons who had committed certain violations of the Military Selective Service Act¹ between August 4, 1964, and March 28, 1973. The President then issued Executive Order 11967 to implement the pardon. The Executive Order provides, in pertinent part, that:

Any person who is or may be precluded from reentering the United States under 8 U.S.C. 1182(a)(22) or under any other law, by reason of having committed or apparently committed any violation of the Military Selective Service Act shall be permitted as any other alien to reenter the United States.

The Attorney General has interpreted the Presidential Pardon as relieving those aliens within its terms from the application of the "evading training or service" provisions of section 212(a)(22) of the Act if the alien presented himself for readmission to the United States as a returning lawful permanent resident on or before June 1, 1978. See 42 Fed. Reg. 59563 (1977). It is clear that the respondent, who reentered the United States on July 17, 1968, is within the terms of the pardon as interpreted by the Attorney General. We find, therefore, that the deportation proceedings instituted against the respondent must be terminated, and the order of deportation entered in this case must be withdrawn.

ORDER: The deportation proceedings are terminated; the order of deportation entered against the respondent is withdrawn.

¹ 50 U.S.C.A. App. § 451 et seq.