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| Our Ref: | ANW.SB.ELABEIDI |
| UAN: | 1212-0001-1301-1699 |
| Please ask for: | Andrew Williams  |
| Date submitted:  | 11 January 2021 |

**Application for indefinite leave to remain in the UK on the basis of long residency**

**Applicant: Elzoubear Idris H Elabeidi**

**Nationality: Libyan**

**DOB: 20 April 1996**

**Status in UK: Tier 4 General Student Leave to Remain**

**Leave expiry date: 23 March 2021**

**Introduction**

We are instructed by the above named thereafter referred to as the applicant in the matter of a long residency application based on the 10-year rule. Please find enclosed the completed Long Residence application form and relevant enclosures. It is submitted that the applicant has proved that he has lived lawfully within the UK for a continuous period of 10 years and respectfully requests that Indefinite Leave to Remain is granted.

**Background**

* Elzoubear Idris H Eladeidi (hereafter referred to as the applicant) is a Libyan national, born in Benghazi on 20 April 1996.
* On 27 August 2010 the applicant entered the UK with a valid Tier 4 (child) Student visa. This was valid from 16 August 2010 until 30 June 2013.
* The applicant attended Fulneck School in Leeds where he achieved his GCSEs.
* On 01 August 2013, the applicant extended his visa on the same basis. This was valid until 30 November 2015.
* The applicant entered the UK on 28 August 2013.
* On 20 January 2016 the applicant was granted an extension of his leave to remain in the UK. This was valid until 30 September 2016.
* Prior to his current leave expiring, the applicant extended his leave to remain in the UK. This was granted on 09 September 2016 and remained valid until 30 October 2020.
* On 14 September 2016 the applicant began an Undergraduate degree at Sheffield Hallam University studying International Finance and Economics.
* On 23 September 2019 the applicant enrolled at the University of Nottingham where he began a Masters degree in Economic Development and Policy Analysis.
* On 29 August 2019, the applicant was granted a Tier 4 General Student visa in the UK, this is valid until 23 March 2021.
* The applicant now submits this application for indefinite leave to remain on account of his 10-year lawful residency in the UK.

**Identity documents**

* Applicant’s Libyan passport (FF4GGJY1)
* Applicants visa dated 16 August 2010 – 30 June 2013 (007136460)
* Applicants visa stamp dated 01 August 2013 – 20 November 2015 (008960210)
* Applicants expired BRP (RE2508242)
* Applicants BRP (RJ9635536)
* Applicant’s birth certificate

Please note the applicant’s previous passport was retained by the Home Office in 2016 when the applicant applied for an extension of his leave to remain in the UK. The applicant’s previous solicitors, The Taylor Partnership wrote to the Home Office on numerous occasions (please see evidence attached) to request this passport but this has never been returned. This passport has since expired, and the applicant has obtained a new one which will be provided with this application.

**Basis of Application**

The applicant is applying for indefinite leave to remain on the basis of his 10-year residency in the United Kingdom.

The applicant urges the Secretary of State to examine the following representations very closely to find that the circumstances of this case warrant the grant of indefinite leave to remain on the basis of:

* The requirements of paragraphs 276A and 276B are met
* Paragraph 276ADE of the Immigration Rules
* Article 8 of ECHR

**Requirements for indefinite leave to remain on the ground of long residence in the United Kingdom**

***276B. The requirements to be met by an applicant for indefinite leave to remain on the ground of long residence in the United Kingdom are that:***

***(i) (a) he has had at least 10 years continuous lawful residence in the United Kingdom.***

The applicant has had 10 years continuous lawful residence in the United Kingdom. Please find enclosed the applicant’s current and previous passports which cover his residency in the UK. He has also enclosed his current Biometric Residence Permit.

***(ii) having regard to the public interest there are no reasons why it would be undesirable for him to be given indefinite leave to remain on the ground of long residence, taking into account his:***

***(a) age; and***

***(b) strength of connections in the United Kingdom; and***

***(c) personal history, including character, conduct, associations and employment record; and***

***(d) domestic circumstances; and***

***(e) compassionate circumstances; and***

***(f) any representations received on the person's behalf; and***

There are no reasons, in regards to the public interest, why it would be undesirable for the applicant to be granted indefinite leave to remain. The applicant is a law-abiding citizen and has conducted himself peacefully in the UK ever since he moved to the UK in 2010. He has made the UK his normal country of residence. The applicant has established a strong private life here in the UK having resided here for over 10 years. The applicants brother is also residing in the UK and will also be making an application for Indefinite Leave to Remain in the UK. The applicant is currently studying in the UK and has excelled in his studies. He has been brought up into the British society and he has become an asset to his community and to the UK.

***(iii) the applicant does not fall for refusal under the general grounds for refusal.***

The applicant does not fall for refusal under any of the general grounds for refusal. The applicant is a law-abiding citizen. It is also submitted that all the information and documents provided within this application are genuine and authentic.

***(iv) the applicant has demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL.***

It is submitted that the applicant has completed the Life in the UK test. The Unique reference number is PSI/031220/YH100LC02/ZRSATR55.

The applicant also has an Undergraduate degree in International Finance and Economics awarded to him at Sheffield Hallam University on 12 June 2019. Please see the certificate enclosed. Furthermore, the applicant is currently studying a Masters in Economic Development and Policy Analysis at The University of Nottingham.

It is clear the applicant has sufficient knowledge of the English language.

***(v) the applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded, as will any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period.***

Ever since the applicant was granted leave to enter on 27 August 2010, he has always been in the UK with valid leave. Please find enclosed the applicant’s current and previous passports which show over 10 years of continuous lawful residence.

**Long Residence in the United Kingdom**

***276A. For the purposes of paragraphs 276B to 276D and 276ADE and 399A.***

***(a) "******continuous residence" means residence in the United Kingdom for an unbroken period, and for these purposes a period shall not be considered to have been broken where an applicant is absent from the United Kingdom for a period of 6 months or less at any one time, provided that the applicant in question has existing limited leave to enter or remain upon their departure and return, but shall be considered to have been broken if the applicant:***

***(i) has been removed under Schedule 2 of the 1971 Act, section 10 of the 1999 Act, has been deported or has left the United Kingdom having been refused leave to enter or remain here; or***

***(ii) has left the United Kingdom and, on doing so, evidenced a clear intention not to return; or***

***(iii) left the United Kingdom in circumstances in which he could have had no reasonable expectation at the time of leaving that he would lawfully be able to return; or***

***(iv) has been convicted of an offence and was sentenced to a period of imprisonment or was directed to be detained in an institution other than a prison (including, in particular, a hospital or an institution for young offenders), provided that the sentence in question was not a suspended sentence; or***

***(v) has spent a total of more than 18 months absent from the United Kingdom during the period in question.***

It is submitted that the applicant has resided continuously in the UK for the required 10 years. The applicant has always been in the UK with valid leave to remain. The applicant has never been deported or been required to leave the UK, he has never left the UK with a clear indication as to not to return and has never left the UK in circumstances where he could have no reasonable expectation to return to the UK. He has never been convicted of any criminal offences. The applicant has not spent more than 18 months absent from the UK during the last 10 years. The applicant has only been absent from the UK during this period for holidays and short trips to visit relatives. In total for the past 10 years he has been absent for approximately 96 days. It is submitted that 18 months is approximately 547.5 days and therefore the applicant has been absent for less than 18 months during the past 10 years.

***(b) "lawful residence" means residence which is continuous residence pursuant to:***

***(i) existing leave to enter or remain; or***

***(ii) temporary admission within section 11 of the 1971 Act where leave to enter or remain is subsequently granted; or***

***(iii) an exemption from immigration control, including where an exemption ceases to apply if it is immediately followed by a grant of leave to enter or remain.***

***(c) 'lived continuously' and 'living continuously' mean 'continuous residence', except that paragraph 276A(a)(iv) shall not apply***

The applicant has had lawful residence with leave to remain in the UK throughout his time here. He has lived continuously here in the UK and therefore there should be no reason to refuse the application.

**Evidence of continuous residence**

*Continuous residence is considered to be broken if the applicant has:*

 *• been absent from the UK for a period of more than 6 months at any one time*

*• spent a total of 18 months outside the UK throughout the whole 10-year period*

*• left the UK before 24 November 2016 with no valid leave to remain on their departure from the UK and failed to apply for entry clearance within 28 days of their previous leave expiring (even if they returned to the UK within 6 months).*

The applicant’s continuous residence is not considered to be broken as he has been absent for less than 6 months at one time. He has not spent a total of 18 months outside the UK throughout the whole 10-year period. For the purposes of this application the 10-year period began in August 2010 and ends in August 2020. In the last 10 years the applicant in total has been absent for around 96 days. Under the Home Office guidance, a month is 30 days and therefore the applicant has been absent for 3.2 months during the past 10 years. He therefore has had continuous residency in the UK. The applicant has always had valid leave during his time in the UK and has never failed to apply for further leave within 28 days of his current leave expiring. He has always been granted with further leave prior to his existing leave expiring.

*Time spent outside the UK Continuous residence is not considered broken if the applicant:*

 *• is absent from the UK for 6 months or less at any one time*

*• had existing leave to enter or remain when they left and when they returned – this can include leave gained at port when returning to the UK as a non-visa national*

 *• departed the UK before 24 November 2016, but after the expiry of their leave to remain, and applied for fresh entry clearance within 28 days of that previous leave expiring, and returned to the UK within 6 months*

It is submitted that the applicant has not been absent for a period of more than six months at any one time during the 10-year period. The applicant has only left the UK to visit relatives and to go on holidays. It is therefore submitted that the applicant’s time outside the UK does not break his continuous residency in the UK.

Please see below the breakdown of when the applicant left the UK and when he arrived back along with the location during the 10-year residency period.

* 18 December 2016 – 10 January 2017 – Libya (visiting family)
* 23 May 2017 – 12 July 2017 – Libya (visiting family)
* 11 May 2018 – 03 July 2018 – Libya (visiting family)

**Evidence of lawful continuous leave granted over the ten-year period – (2010-2021)**

Reliance is placed on the applicant’s current and previous passports to prove that he has lived within the UK lawfully for the 10 years preceding this application. The applicant has been residing in the UK for more than 10 years. However, for the purpose of this application the ten-year residency period commenced in August 2010 and ends prior to submitting the application in January 2021. It is submitted that the applicant has continued to have lawful leave within the UK during this period. The applicant’s leave throughout the past 10 years has been granted by in country and leave to enter extensions. This is evidenced from the enclosed current and previous passports as well as the applicant’s current biometric residence permit.

* **Leave to enter as a Tier 4 (Child) Student granted by the Secretary of State:** 16 August 2010 until 30 June 2013.
* **Leave to enter as a Tier 4 (Child) Student granted by the Secretary of State:** 01 August 2013 until 30 November 2015.
* **In country leave to remain granted by the Secretary of State:** 20 January 2016 until 30 September 2016.
* **In country leave to remain granted by the Secretary of State:** 09 September 2016 and remains valid until 30 October 2020.
* **In country leave to remain granted by the Secretary of State:** 29 August 2019 and remains valid until 23 March 2021.

**Evidence of Ten-Year Residency**

The applicant has submitted the following documents as proof of his 10 years of continuous residence in the United Kingdom. The applicant’s main residency is 114 Eden Crescent, Leeds, LS4 2TR where he has resided since June 2011 however, he moved away to temporary student accommodation whilst he was at university. Please note, as this was not his permanent home, he did not have post addressed to him here and therefore does not have much evidence to show for this period, however please find attached Tenancy Agreements as evidence. We therefore hope the Secretary of States takes this into consideration.

During the material period the applicant and his family have been residing at the following addresses:

**27 August 2010 – 11 June 2011**

42 Grayson Heights

Leeds

LS4 2UD

**11 June 2011 – Present**

114 Eden Crescent

Leeds

LS4 2TR

**01 September 2016 – 30 June 2017**

206 Gatecrasher Apartments

104 Arundel Street

Sheffield

S1 4TH

**16 September 2017 – 21 July 2018**

Hannah Court

Matilda Street

Sheffield

S1 4SY

**September 2018 – July 2019**

Crown House

51 West Bar

Sheffield

S3 8PH

**14 September 2019 – 05 September 2020**

Ralford Mill

Ilkeston Road

Nottingham

NG7 3HD

Please see enclosed all Assured Shorthold Tenancy agreements as evidence.

It is submitted that the applicant has provided more than enough evidence to show he has been residing within the UK for the last 10 years. On balance, it is submitted that the applicant has provided enough evidence to show he was residing in the UK during that period.

**Private Life under Paragraph 276ADE**

It is submitted that by reason of the applicant’s ten years residency within the UK, he has inevitably established private life.

***Requirements to be met by an applicant for leave to remain on the grounds of private life***

***276ADE. The requirements to be met by an applicant for leave to remain on the
grounds of private life in the UK are that at the date of application, the applicant:***

*(i) does not fall for refusal under any of the grounds in Section S-LTR 1.2 to S-LTR 1.5 in Appendix FM; and*

*(ii) does not fall for refusal under any of the grounds in Section S-LTR 1.6 to 2.3 in Appendix FM; and*

*(iii) has lived continuously in the UK for at least 20 years (discounting any period of imprisonment); or*

*(iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment); or*

*(v) is aged 18 years or above and under 25 years and has spent at least half of his life residing continuously in the UK (discounting any period of imprisonment); or*

***(vi) is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but there would be very significant obstacles to the applicant’s integration into the country to which he would have to go if required to leave the UK.***

*In considering applications under this paragraph, the Secretary of State shall attach less weight to private life in the UK established following refusal of an earlier application for leave to remain made under paragraph 276ADE.*

The applicant has a very valid claim for Indefinite Leave to Remain on account of the length of residency within the UK and the private life he has established under paragraph 276ADE (vi).

The applicant is over the age of 18 years old, has lived in the UK for less than 20 years but there would be very significant obstacles to the applicant’s integration should he be forced to return to Libya.

He has established a strong family and private life here in the UK. The applicant has had his whole schooling in the UK. He and his brother both currently attend university in the UK. He has formed a large group of friends and has made the UK his normal country of residence. The applicant currently resides with his brother who is also applying for Indefinite Leave to Remain. It is clear that the applicant is a hardworking individual who will contribute to British society. If the applicant was forced to return to Libya he would suffer very significant obstacles.

The applicant has established strong ties to the UK. He is currently studying at The University of Nottingham where he is working towards a Masters. On 27 August 2010, the applicant entered the UK with a valid Tier 4 (Child) Student visa. This was valid from 16 August 2010 until 30 June 2013. He attended Fulneck School in Leeds where he achieved his GCSEs. On 01 August 2013, his visa was extended and this remained valid until 30 November 2015. On 20 January 2016 the applicant was granted an extension of his leave to remain in the UK. This was valid until 30 September 2016. Prior to his current leave expiring, the applicant extended his leave to remain in the UK. This was granted on 09 September 2016 and remained valid until 30 October 2020. On 14 September 2016 the applicant began an Undergraduate degree at Sheffield Hallam University studying International Finance and Economics. On 23 September 2019 the applicant enrolled at the University of Nottingham where he began a Masters degree in Economic Development and Policy Analysis. On 29 August 2019, the applicant was granted a Tier 4 General Student visa in the UK, this is valid until 23 March 2021. The applicant now submits this application for indefinite leave to remain on account of his 10-year lawful residency in the UK. There is nothing to suggest he will continue to be anything but a desirable citizen if granted Indefinite Leave to Remain.

The applicant has developed from a child to a teenager to an adult whilst studying in the UK. His return to Libya is practically unfeasible. The applicant has excelled in his studies and this can be evidenced from his outstanding results. The applicant is clearly an intelligent individual with huge potential to succeed as evidenced from his schooling.

The applicant has clearly established strong bonds with his fellow students and with his academic professors. It should be mentioned that the applicant simply does not want to give the ties he has to the UK up and relocate to a country he has only resided in for brief period when he was a young child*.* It is clear the applicant has developed a strong private life in the UK and has strong ties with the local community. The applicant would be forced to give up his education and future career aspirations if he had to leave the UK and would struggle to re-integrate into a new community in Libya when his life in the UK is all he has known.

The applicant has established a wide circle of friends in the UK. He has learned and developed as a person in the UK having spent the most crucial years of his life here when he studied his GCSE’S, A Levels, Undergraduate degree, Postgraduate degree. It is submitted that the best interests of the applicant must be considered. It is clearly in his best interests to remain in the UK and to continue with his studies. The applicant therefore needs to be able to remain in the UK in order to be able to continue with his education. The applicant’s brother is also applying for settlement. Given that, the applicant cannot leave the UK and the strength of the applicant’s ties to the UK he should be granted indefinite leave to remain.

**Representations under Article 8 ECHR**

Gulshan (Article 8 – New Rules – Correct Approach) [2013 UKUT 00640 (IAC)

On the current state of the authorities:

*(a)  The maintenance requirements of E-LTRP.3.1-3.2 stand, although Blake J in R (on the application of MM) v Secretary of State for the Home Department [2013] EWHC 1900 (Admin) said that they could constitute an unjustified and disproportionate interference with the ability of spouses to live together; he suggested that an appropriate figure may be around £13,400, and highlighted the position of young people and low wage earners caught by the higher figure in the rules;*

*(b)  After applying the requirements of the Rules, only if there may be arguably good grounds for granting leave to remain outside them is it necessary for Article 8 purposes to go on to consider whether there are compelling circumstances not sufficiently recognised under them: R (on the application of) Nagre V Secretary of State for the Home Department  [2013] EWHC 720 (admin);*

*(c)  The term “insurmountable obstacles” in provisions such as Section EX.1 are not obstacles which are impossible to surmount: MF (Article 8 – new rules) Nigeria  [2012] UKUT 00393 (IAC); Izuazu (Article 8) – new rules) [2013] UKUT 00045 (IAC); they concern the practical possibilities of relocation. In the absence of such insurmountable obstacles, it is necessary to show other non-standard and particular features demonstrating that removal will be unjustifiably harsh: Nagre.*

It is submitted that the applicant has established both private and family life within the UK. The applicant has settled within the UK and adapted to British society. He has formed a family unit with his brother who is also applying for indefinite leave to remain; this family life could not be continued from Libya.

**Private life within the UK**

‘*Everyone has the right to respect for his private and family life , his home and his correspondence.’ There shall be no interference by a public authority with the exercise of this right expect such as is in accordance with the law and is necessary in a democratic society in the interests of national security public safety to the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.’*

Inevitably the applicant has developed ‘personal*, social and economic ties that make up private life of every human being*’ so that to refuse an application for residence or to expel the person would be an interference with private life: **Slivenko v Latvia { 2004 } 2 FCR 28**.

In **Nhundhu v Chiwera**, the IAT, after considering certain decision of the EC stated :

‘ *in the context of immigration and asylum cases, the court has come to view the right to respect for private and family life as a composite right. This approach requires the decision maker to avoid restricting himself to circumstances of ‘ family life’ and to take into account also significant elements of the much wide sphere of ‘ private life’ …One consequence of this approach is that a person may be able to establish a protected right under Article 8 either by reference to significant elements of family life or significant elements of private life or a mixture of both.*

In **Maslov v Austria ( Application NO 1638 ) 2009 INLR 47** the Grand Chamber of the ECTHR pointed out this potentially important aspect of ‘ private life ‘ within Article 8 : ‘ *As article 8 also protects the right to establish and develop relationships with other human beings and the outside world and can sometimes embrace aspects of an individual’s social identity, it must be accepted that the totality of social ties between settled migrants and the community in which they are living constitutes part of the concept of ‘ private life ‘ within the meaning of Article 8*.’

There is no doubt that in light of case law that the social ties and relationships actually formed by the applicant over the last 10 years would fall within the protected right to personal development accepted in the case law.

In **Silvenko v Latvia ( Application No 48321 /99 ) 2004 39EHRR 24,** the ECthr acknowledged that *‘ …the case law has consistently treated the expulsion of long term residents under the head of ‘ private life’ as well as that of ‘ family life ‘ some importance being attached in this context to the degree of social integration of the persons concerned. Whilst the ECtHR in Silvenko referred to ‘ long term residents ‘ its judgment cannot be so restricted. Those ties may arise – albeit with less cohesive force – for temporary visitors such as students or workers.’ They are an aspect of that individual’s right to personal development and the right to establish and develop relationships with other human beings and the outside world. As the Tribunal observed in Na ‘ .. it is possible for a student in the course of his studies ( and part-time working if applicable ) to have developed over time ties with the community that amount to significant elements of a private within the meaning of Article 8 ( a student may also have maintained or developed incidental family ties here ).*’ In **MM Zimbabwe [2009 ] UKIAT 00037** it was found that social ties formed whilst living in a community, working with others or studying at school or other educational institution are aspects of an individual’s ‘*private life’* within Article 8.

In **SZ ( Zimbabwe v SHHD [2009 ] EWA Civ 590** the Court of Appeal accepted that the Claimant a student had established a private life in the UK. That view was based not upon any claimed ‘ *right to study’* but rather flowed from the claimants ‘ *time and links’* in the UK.

It is submitted that the applicant has established to a significant extent private life through social ties and relationships formed over the last ten years. He also has a wide circle of friends; these friendships have developed over the course of his duration in the UK.

It is submitted that the applicant’s private life will be affected by the Secretary of State’s decision in that it will have an impact upon the social ties he has established within the UK.

**Razgar Principles (R (Razgar) v Secretary of State for the Home Department [2004] UKHL 27**

It is submitted that the principles laid down in Razgar by Lord Bingham are more than adequately satisfied.

As stated at Paragraph 17, *“In considering whether a challenge to the Secretary of State's decision to remove a person must clearly fail, the reviewing court must, as it seems to me, consider how an appeal would be likely to fare before an adjudicator, as the tribunal responsible for deciding the appeal if there were an appeal. This means that the reviewing court must ask itself essentially the questions which would have to be answered by an adjudicator. In a case where removal is resisted in reliance on article 8, these questions are likely to be”:*

Is it submitted that the interference shall have consequences of such gravity as potentially to engage the operation of Article 8 ECHR and that such interference cannot possibly be proportionate to the legitimate aim of proper immigration control.

1. **Family life must be established:**

The applicant has had his full schooling in the UK. He has had a British education and has spent the last 10 years living in the UK. The applicant’s brother is also applying for settlement on this basis. He has clearly established a wide range of friends and a private life during his time in the UK. The strength and resilience of the applicant has enabled him to continue living and building positive friendships and a social circle within the UK. The strength and duration of the applicant’s engagement with community and society in the UK is a testament to the established family and private life of the applicant. The applicant and his brother have resided together as a family unit and have done continuously throughout their time in the UK. Family and a private life is clearly established.

1. **Will the proposed removal be interference by a public authority with the exercise of the applicant’s right to respect for his private or family life?**

Yes.

1. **If so, will such interference have consequences of such gravity as potentially to engage the operation of Article 8?**

Yes. It is submitted that the interference with the applicant’s family life will give rise to serious disruption of the applicant’s private and family life. During the last 10 years he has inevitably developed private and, family life.

The applicant cannot exercise his right to a respect for family and private life from Libya. Such interference would be so grave as to amount to a flagrant denial of that right.

1. **If so, is such interference in accordance with the law?**

No.

1. **If so, is such interference necessary in a democratic society in the interest of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others?**

No. The applicant has conducted himself peacefully within the United Kingdom and carries no threat to the state whatsoever. There is all reason to suggest he would pursue a legitimate and peaceful life if he was granted indefinite leave to remain in the UK. The applicant obeys the laws and respects the values of the UK.

1. **If so, is such interference proportionate to the legitimate public end sought to be achieved?**

It is submitted that removal of the applicant from the UK would constitute a disproportionate interference with the applicant’s right to family and private life.

**Conclusion:**

The applicant has satisfied the requirements of the Long Residency Rules and we would be grateful for ILR to be granted. In the event of a refusal please ensure that he is afforded an in country right of appeal.

Please acknowledge receipt of this application.

Thank you.

Yours sincerely

**Andrew Williams Solicitors**

**Encl see index**