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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*11*



FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER

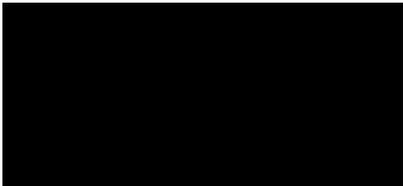
Date:

**JUN 06 2005**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Acting Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of India who seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The Acting Director denied the application after determining that the application was filed after the applicant had departed the United States. See *Acting Director's Decision* dated November 2, 2004.

On appeal, counsel states that the applicant submitted an Application for Travel Document (Form I-131), on September 5, 2003, requesting an extension for her reentry permit. Counsel does not dispute the fact that the applicant departed the United States on July 25, 2003, and was physically outside the United States attending college when she filed the Application for Travel Document (Form I-131). Counsel requests that the Acting Director's decision be overturned because the applicant assumed that the submission for an extension of a Form I-131 while physically outside the United States would be permissible due to the unusually long processing time required to adjudicate the Form I-131.

The record of proceedings in this case relates to the denial of the Form I-131 and the AAO will not address the backlog or the processing time it took the Service Center to contact the applicant. The applicant departed the United States without a reentry permit and should have contacted the American Embassy in India to inquire about the time permitted to remain outside the United States without jeopardizing her lawful permanent resident status.

The applicant's request for an extension of her reentry permit cannot be entertained since the regulation at 8 C.F.R. § 223.3(c) specifically states that a reentry permit or refugee travel document may not be extended.

In pertinent part, section 223 of the Act provides that an alien lawfully admitted for permanent residence who intends to travel abroad and return to the United States to resume that status may make an application for a permit to reenter the United States.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(b) Eligibility.

(1) Reentry permit. Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application and is a lawful permanent resident or conditional permanent resident.

The regulation at 8 C.F.R. § 103.2 states in pertinent part:

Applications, petitions, and other documents.

(a) *Filing-(1) General.* Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or petition should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. The form must be filed with the appropriate filing fee required by § 103.7. . .

...

*(7) Receipt date-(i) General.* An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204 or part 245 or part 245a of this chapter, shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions, and ones in which the check or other financial instrument used to pay the filing fee is subsequently returned as non-payable will not retain a filing date . . .

The record of proceeding reveals that the applicant is a lawful permanent resident of the United States. The applicant signed a Form I-131, which was subsequently mailed to the Nebraska Service Center and received on September 5, 2003. The documentation in the record of proceedings and a statement by the applicant's attorney shows that the applicant had departed the United States prior to the filing of the Form I-131. Since the application was not filed until after the applicant had departed the United States, the application may not be approved.

It is noted that a lawful permanent resident of the United States who is in possession of evidence of lawful admission (Form I-551) and intends to reenter the United States within one year of his/her last departure may not require a reentry permit to reenter. However, if a lawful permanent resident seeks to reenter after an absence of one year or more, and does not possess a reentry permit, he/she should contact a United States consulate abroad for further information regarding his/her possible options for return to the United States.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.