

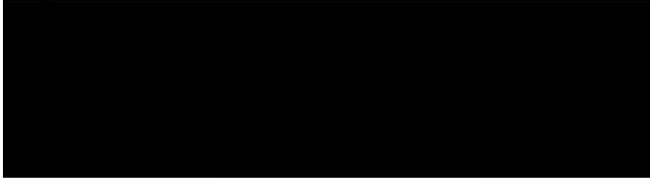
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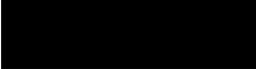
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: DEC 1 2006

(LIN-06-07250878 relates)

IN RE:

Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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, Chief
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 Indonesia, 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 July 20, 2006.

Section 223 of the Act provides, in pertinent part, that an alien lawfully admitted for permanent residence who intends to visit 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.

On appeal, the applicant does not dispute the Acting Director's decision. Along with the Notice of Appeal to the AAO (Form I-290B), the applicant states that she is submitting a new Application for Travel Document (Form I-131) since she is currently present in the United States. The applicant requests that a favorable consideration will be given to her application.

The proceeding, in the present case, is for a Form I-131 filed on April 17, 2006, and therefore, the AAO will not discuss the submission of the new Form I-131. This new Form I-131 will be adjudicated by the Nebraska Service Center on its own merits.

The record of proceeding reveals that on November 14, 1985, the applicant was admitted into the United States as a lawful permanent resident. The record further indicates that the applicant departed the United States on August 5, 2005. On December 29, 2005, while residing in Indonesia, the applicant signed a Form I-131, which was subsequently mailed to the Nebraska Service Center and filed on April 17, 2006.

The Act provides no exception regarding the physical presence requirement at the time of filing a Form I-131. Since the application was not filed until after the applicant had departed the United States, the application may not be approved as a matter of law.

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

ORDER: The appeal is dismissed.