



U.S. Citizenship
and Immigration
Services

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AUG 23 2007

FILE:

Office: NEBRASKA SERVICE CENTER

Date:

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IN RE:

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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 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 the Philippines 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 Director denied the application after determining that the application had been filed after the applicant had departed the United States. See *Director's Decision* dated February 9, 2007.

Section 223 of the Act provides, in pertinent part, that an alien lawfully admitted for permanent residence who intends to travel abroad and return to the United States to resume that status may apply 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 record of proceeding reflects that the applicant was admitted into the United States as a lawful permanent resident on April 28, 1999. On August 11, 2006, the applicant filed an Application for Travel Document (Form I-131) with Citizenship and Immigration Services (CIS). On November 22, 2006, the Director requested that the applicant provide evidence to establish his actual date of departure from the United States. The applicant responded and the evidence indicates that the applicant departed the United States on March 29, 2005. Therefore, the Form I-131 was filed after the applicant departed the United States.

On appeal, the applicant submits documentation regarding his enrollment in a senior clerkship program at the Cebu Institute of Medicine from April 1, 2005 until December 21, 2006 and his participation in a Post Graduate Internship Program at Chong Hua Hospital from November 22, 2006 until February 26, 2007.

The fact remains that the Form I-131 was filed after the applicant departed the United States. 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.

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 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 eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.