



U.S. Department of Justice
Immigration and Naturalization Service

12

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



PUBLIC COPY

FILE: [REDACTED] Office: Nebraska Service Center

Date: JAN 30 2001

IN RE: Applicant: [REDACTED]

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

IN BEHALF OF PETITIONER: Self-represented

identification data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Vietnam who is seeking to obtain a reentry permit pursuant to section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1203.

The director denied the application after determining that the applicant had failed to establish that he is a lawful permanent resident or conditional permanent resident of the United States.

On appeal, the applicant states 'I came to the United States in January 29, 2000 at Los Angeles with a class K1.' In order to fulfill all requirements, I married [REDACTED] I consider myself as a permanent resident and have filed Employment Authorization (Form I-765), Application to Register Permanent Resident or Adjustment Status (Form I-485). He further states 'I would like to obtain a reentry permit in order to bring my wife back to my country and introduce her to my relatives and friends.'

In pertinent part, section 223 of the Act provides 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.

With certain exceptions¹, regulations at 8 C.F.R. 223.2(b) allow for the approval of a reentry permit if the application (Form I-131) is filed by a lawful permanent resident or conditional permanent resident.

The application for a reentry permit was filed on March 15, 2000. The record reflects that the applicant has an application for adjustment of status to permanent residence pending with the Service. The evidence of record, however, fails to establish that the applicant was a lawful permanent resident or conditional permanent resident of the United States at the time this application was filed with the Service.

The application for a permit to reenter the United States may not be approved. However, the applicant may file an application for advance parole at a local Immigration and Naturalization Service

¹See 8 C.F.R. 223.2(c) providing ineligibility where (1) a prior reentry permit is still valid, (2) certain extended absences have been taken by the applicant, or (3) the applicant is entitled to nonimmigrant diplomatic or treaty status and has not submitted the applicable waiver and/or tax exemption form. A review of the record reveals that none of these exceptions to the approval of a reentry permit is present in the matter at hand.



Office.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361. The applicant has not met that burden. The appeal will be dismissed.

ORDER: The appeal is dismissed.