

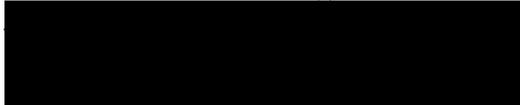


I 2

U.S. Department of Justice
Immigration and Naturalization Service

identification data deleted to
prevent clearly unwarranted
invasion of personal privacy.

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



File: [Redacted] Office: ROME, ITALY

Date: 15 MAR 2002

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 APPLICANT: SELF-REPRESENTED

PUBLIC COPY

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


Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant, a native of Kazakhstan, seeks to obtain a refugee travel document 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 applicant had been outside of the United States for one year or more since his last departure and had failed to establish that he did not intend to abandon his refugee status at the time of departure.

On appeal, the applicant states that after he was granted refugee status, he was obliged to leave the United States with his mother in haste in order to help his sister in Kazakhstan. After his arrival in Kazakhstan, he had an accident and could not return. The applicant states that he is now healthy, ready to work, and would be grateful to be allowed to return to the United States.

The regulation at 8 C.F.R. 223.2(b)(2) allows for the approval of a refugee travel document if the application (Form I-131) is filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The record reflects that the applicant was granted refugee status in the United States on August 27, 1996. Soon after obtaining that status, the applicant departed the United States for Kazakhstan where he has remained to this date. The applicant applied for a refugee travel document on September 25, 2000 while in Kazakhstan and submitted the application to the Immigration and Naturalization Service office at the American Embassy, Rome, Italy.

The record contains documentation indicating that the applicant, who is 42-years-old, and his mother initially went to Kazakhstan because his sister's husband had left her and she was seven months pregnant. Shortly after his arrival in Kazakhstan, the applicant was bitten in October 1996 by a poisonous spider. He subsequently received medical treatment for an uninterrupted period of 15 days and within a month was stabilized. He then received out-patient rehabilitation therapy from November 1996 through April 2000 due to complaints of weakness and fatigue.

The regulation at 223.2(b)(2)(ii) states, in pertinent part, that:

As a matter of discretion, . . . an overseas district director having jurisdiction over the place where an alien is physically present . . . may accept and adjudicate an application for a refugee travel document

from an alien who previously had been admitted to the United States as a refugee, . . . and who had departed from the United States without having applied for such refugee travel document, provided:

* * *

(B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;

(C) The alien did not engage in any activities while outside of the United States that would be inconsistent with continued refugee or asylee status; **and**

(d) **The alien has been outside of the United States for less than 1 year since his or her last departure.**
(emphasis added)

The applicant has been outside of the United States since 1996, shortly after obtaining status as a refugee. He did not apply for a refugee travel document prior to departure and has failed to establish that he did not intend to abandon his refugee status at the time of his departure. Consequently, the application cannot be approved.

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.

ORDER: The appeal is dismissed.