

IL

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

[Redacted]

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

File: LIN 02 202 51323

Office: Nebraska Service Center

Date:

JUL 09 2003

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:

[Redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected. The decision of the director will be withdrawn and the matter will be remanded to him for further consideration and action.

The applicant, a native of Japan, seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. 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. The regulation at 8 C.F.R. § 223.2(b)(1) allows for the approval of a reentry permit if the application (Form I-131) is 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 of the United States.

The director denied the application after determining that the applicant had failed to establish his eligibility for issuance of the requested document. Specifically, the director stated that the applicant does not appear to be the individual to whom alien registration card (Form I-551), numbered [REDACTED] was issued by the Bureau.

On appeal, counsel for the applicant asserts that the Bureau's contention that the applicant's alien registration card (Form I-551) belongs to another person is absolutely unreasonable and incomprehensible. Counsel states that the Bureau has failed to state why a copy of the applicant's Form I-551 is not "clear and convincing" evidence of his status as a lawful permanent resident and suggests that if the Bureau erroneously assigned the applicant's Form I-551 number to another individual, then it (the Bureau) needs to correct its own mistake. In support of the appeal, counsel submits additional evidence of the applicant's status including a copy of his passport page showing his stamp of admission into the United States as a lawful permanent resident. The passport admission stamp contains the same information regarding the applicant's lawful permanent residence status as the previously submitted copy of his Form I-551.

Service instructions at O.I. 103.3(c) provide, in part, that the record of proceeding must contain all evidence used in making the decision, including the following items arranged from top to bottom in the following order:

- (1) Notice of Entry of Appearance of Attorney or Representative (Form G-28).
- (2) Brief, statement, and/or supporting evidence.
- (3) Notice of Appeal to the Administrative Appeals Office (Form I-290B).

- (4) Decision.
- (5) Any response to notice of intent to take unfavorable action.
- (6) Notice of intent to take unfavorable action.
- (7) Investigative reports and/or other derogatory information.
- (8) Application or petition (Form I-601).
- (10) Evidence in support of application or petition.

As constituted, the record fails to contain any derogatory information concerning the authenticity of the applicant's status as a lawful permanent resident or the information contained on his Form I-551. Therefore, the district director's decision in the matter is withdrawn.

The appeal of the director's decision will be rejected, and the record remanded to him so that he can adjudicate the case and enter a new decision based on documentation contained in a record of proceeding which can be properly reviewed by the AAO. If that decision is adverse to the applicant, the director will certify his decision to the AAO for review accompanied by a properly prepared record of proceeding.

ORDER: The director's decision is withdrawn. The appeal is rejected. The matter is remanded to the director for further action consistent with the foregoing discussion and entry of a new decision which, if adverse to the applicant, is to be certified to the AAO for review.