

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

[REDACTED]

MAR 24 2003

FILE: [REDACTED] (LIN 02 200 54000)

OFFICE: NEBRASKA SERVICE CENTER

Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.2(b)(2)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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 before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant, a citizen of India, seeks to obtain a refugee travel document under 8 C.F.R. § 223.2(b)(2)(i). The director denied the applicants application for a refugee travel document for the following:

The record reflects that the applicant filed a I-589 application on March 2, 1992. The case hearing was held before the Immigration Judge on November 3, 1993 and asylum status was denied. The appeal was filed on November 8, 1993. On February 29, 2000, the case was dismissed. The final decision of the case ruling is denial of asylum status.

On appeal, the applicant states that his asylum case "has been approved by the 9th Circuit Court of Appeal from San Francisco, CA on May 22, 2002."

Regulations at 8 C.F.R. § 223.2(b) state, in pertinent part that:

Eligibility. (2) Refugee travel document. (i) General. 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 either holds valid refugee status under section 207 of the Act, valid asylee status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylee or refugee status.

On appeal, the applicant provided a copy of the decision of the United States Court of Appeals for the Ninth Circuit on his petition for review of the Board of Immigration Appeals (BIA) decision dismissing his appeal of the Immigration Judge's denial of his request for asylum and withholding of deportation. The Court of Appeals for the Ninth Circuit vacated the decision of the BIA and granted the applicants application for withholding of removal and remanded the case for the "exercise of the Attorney General's discretion" regarding the beneficiary's request for asylum. It is noted that the record contains no evidence of any further action taken by the Attorney General, the Board of Immigration Appeals or the Immigration and Naturalization Service, now the Bureau, in this matter.

As it has not been established that the applicant holds either valid refugee status under section 207 of the act, valid asylee



status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his asylee or refugee status, this application may not 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.