

PUBLIC COPY

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

NOV0503_01I2223

12

ADMINISTRATIVE APPEALS OFFICE
CIS, AAC 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

[Redacted]

File: LIN 03 135 50253

[Redacted] (relates)

Office: Nebraska Service Center

Date:

NOV 05 2003

IN RE: Applicant:

[Redacted]

Application:

Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b)

IN BEHALF OF APPLICANT:

[Redacted]

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 Citizenship and Immigration Services (CIS) 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

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 sustained. The application will be approved.

The applicant is a 14-year-old native of Mauritania. His father seeks to obtain a refugee travel document on his behalf pursuant to 8 C.F.R. § 223.1(b). The director denied the application, finding that the photograph submitted with the application did not appear to be the same child as identified in CIS records under alien file number [REDACTED]

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 [REDACTED] the father of the applicant, was granted asylee status on October 2, 1996. On November 26, 1997, the applicant was admitted to the United States as a derivative asylee, minor child of [REDACTED] and assigned alien file number [REDACTED]

On November 12, 2002, the applicant's father filed a Form I-131 application for a refugee travel document on the child's behalf. The application was approved. The refugee travel document was issued on December 31, 2002, valid through December 31, 2003, and forwarded to the applicant at the above address on January 2, 2003.

On March 21, 2003, the applicant's father, through counsel, filed a second Form I-131 application on the child's behalf, stating that the previously issued refugee travel document had never been received. In support of the application, counsel submitted documentation including photocopies of the child's birth certificate, his father's asylum approval, and documents relating to the child's arrival in the United States as a derivative asylee.

The director denied the application on May 19, 2003, after having reviewed electronically stored images relating to the child's previously issued refugee travel document and alien file number [REDACTED]. The director concluded that the Form I-131 applicant did not appear to be the individual in the relating alien file.

On appeal, counsel explains the discrepancies in the photographs of the applicant submitted with the original I-131 application on November 6, 2002, and the second application on March 17, 2003. Counsel states that the photograph submitted with the first I-131 application was taken in January 2000, when the applicant was ten-years-old, whereas the photograph submitted with the second application was current, taken in 2003. In support of the appeal,

counsel submits a color photocopy of the applicant's school identification card.

After a careful review of the record and the documentation submitted on appeal, it is concluded that satisfactory evidence has been submitted to establish that the applicant is the same child as identified in CIS records relating to alien file number [REDACTED]. Therefore, the appeal will be sustained. The decision of the director will be withdrawn and the application will 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 met that burden.

ORDER: The appeal is sustained. The decision of the director is withdrawn and the application is approved.