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U.S. Department of Homeland Security

Citizenship and Immigration Services

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

File: LIN 03 1279 50651  
[redacted] relates)

Office: Nebraska Service Center

Date:

SEP 29 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: 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 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, 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 dismissed.

The applicant, a native and citizen of the Republic of South Africa, seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The director denied the application, determining that it was filed after the applicant had already departed from the United States.

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 for Travel Document (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.

On appeal, the applicant states that her spouse and daughter are citizens of the United States and that she was not aware that she had to submit her application for a reentry permit while physically present in the United States. She explains that she understood from CIS officials that if she were to remain outside of the United States for more than six months, she would require a reentry permit to return. She feels that she made every effort to comply with the regulations and that she consulted an immigration attorney with regard to her application. The supporting documentation submitted by the applicant on appeal includes a letter from a physician in Johannesburg dated June 30, 2003, stating that the applicant's mother is in remission from non-Hodgkin's lymphoma and has been treated with chemotherapy; a letter dated January 7, 2003 from her daughter's psychiatrist stating that her daughter is a patient undergoing medical treatment for attention deficit disorder; and a letter from the school where her daughter is currently enrolled in South Africa indicating that the daughter is involved in a number of remedial programs and therapy.

CIS records reflect that the applicant is a lawful permanent resident of the United States. The applicant signed her Form I-131 on January 8, 2003 and departed the United States on January 10, 2003. Her application was subsequently mailed to the Nebraska Service Center where it was initially received on March 11, 2003.

Since the application was not properly filed while the applicant was physically present in the United States, the application may not be approved. The appeal will, therefore, be dismissed.

It is noted that a lawful permanent resident who seeks to reenter after an absence from the United States of one year or more, and does not possess a reentry permit, should contact a United States

consulate abroad for further information regarding possible options for return to the United States.

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.