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

PUBLIC COPY

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



SEP 30 2003

File: LIN 02 139 54146 Office: Nebraska Service Center Date:
[redacted] relates)

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

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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. Wiernann, 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 of India, 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 after determining that it was filed after the applicant had 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 (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 if the denial of her application had been made within a reasonable time, she would have had enough time to return to the United States. She states that it is now more than a year since she departed and that she is unable to return without a re-entry permit.

The record of proceeding reflects that the applicant was admitted to the United States as a lawful permanent resident on December 21, 2001. Her Application for Travel Document (Form I-131) was signed by her on February 22, 2002 and mailed to the Nebraska Service Center, where it was initially received on March 19, 2002. On March 21, 2002, the center returned the application to the applicant and advised her that it could not be accepted because the proper fee had not been submitted. The application was subsequently submitted, with the appropriate fee, on April 23, 2002. The record further reflects that the applicant last departed the United States on February 25, 2002.

Since the application was not properly filed until 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.