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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: NEBRASKA SERVICE CENTER

(LIN-02-293-51643 relates)

APR 08 2004
Date:

IN RE:

Applicant:

[Redacted]

APPLICATION:

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

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

[Handwritten signature]

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 (AAO) on appeal. The appeal will be sustained and the application approved.

The applicant is a citizen of Indonesia, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The Director concluded that the applicant did not hold valid refugee status under section 207 of the Immigration and Nationality Act (the Act), or valid asylum status under section 208 of the Act, at the time the application was filed and denied the application accordingly. See *Director Decision* dated September 15, 2003.

The regulation at 8 C.F.R. § 223.1 states in pertinent part:

(b) Refugee travel document. A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in § 223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) states:

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 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.

On June 6, 2003 the director requested additional evidence from the applicant to show that he was granted asylum status. On the same date the director advised the applicant that he was required to register with the National Security Entry-Exit Registration System (NSEERS) by April 25, 2003.

On appeal, counsel states that the applicant was granted asylum based on the Refugee/Asylee Relative Petition (Form I-730), which was approved on October 30, 2000, and therefore the applicant is entitled to a refugee travel document. Counsel submits copies of the applicant's Arrival-Departure Record (Form I-94), Notice of Action (Form I-797), and a copy of the applicant's application for extension of his nonimmigrant status. Furthermore counsel states that the applicant was not required to register with NSEERS because he had applied for and was granted asylum status and therefore he was exempt.

The regulation at 8 C.F.R. § 208.21 provides, in pertinent part:

(c) Spouse and child in the United States. When a spouse or child of an alien granted asylum is in the United States, but was not included in the asylee's application, the asylee may request accompanying or following-to-join benefits for his/her spouse or child by filing for each qualifying family member a separate Form I-730, Refugee/Asylee Relative Petition, and supporting evidence, with the designated Service office, regardless of the status of that spouse or child in the United States.... Upon approval of the Form I-730, the Service will notify the asylee of such approval on Form I-797, Notice of Action. Employment will be authorized incident to status. To demonstrate employment authorization, the Service will issue a Form I-94, Arrival-Departure Record, which also reflects the derivative's current status as an asylee, or the derivative may apply under section 274a.12(a) of this chapter, using Form I-765, Application for Employment Authorization and a copy of the form I-797.....

The record of proceedings reveals that the applicant entered the United States as a B-2 nonimmigrant visitor for pleasure on February 8, 2000, and applied for an extension of his nonimmigrant status that was approved

and was valid from August 8, 2000 to February 7, 2001. Records of Citizenship and Immigration Services (CIS) indicate that on October 27, 2000, a Form I-730 was approved on behalf of the applicant. Furthermore the Central Index System of CIS reflects that the applicant has been receiving Employment Authorization Documents since December 2000 as an asylee. In regard to the NSEERS registration requirement the applicant is exempt since he was granted asylum on October 27, 2000.

After reviewing the evidence in the record the AAO finds that the applicant was granted asylum status under section 208 of the Act and he is entitled to the requested refugee travel document. Accordingly, the appeal will be sustained and the application approved.

ORDER: The appeal is sustained and the application approved.