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U.S. Department of Homeland Security
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U.S. Citizenship
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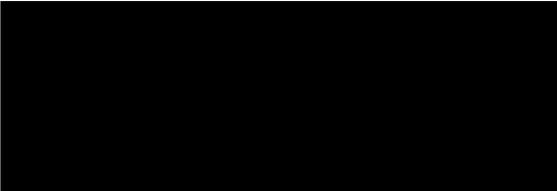
DEC 21 2004

FILE:  Office: NEBRASKA SERVICE CENTER
(LIN-04-100-51023 relates)

Date:

IN RE: Applicant: 

APPLICATION: Application for Travel Document Pursuant to Section 223 of the Immigration and
Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT:


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.

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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 native and citizen of Canada, who 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 the applicant did not hold a valid Lawful Permanent Resident (LRP) or conditional resident status at the time the application was filed. *See Director's Decision* dated January 21, 2004.

On appeal, counsel submits documentation that establishes that the applicant is an LPR and is entitled to receive a reentry permit.

The record of proceedings reveals that the applicant executed an Abandonment of LRP Status (Form I-407) on May 13, 2003. On March 5, 2004, the Director requested the District Director of the Denver, Colorado office to conduct an interview in order to determine if the applicant had abandoned her LRP status. The AAO notes that in March 5, 2004, the Director stated: ". . . If they are a LPR, the NSC will follow up with Service Motion and approve the I-90 and I-131." After a complete review of the record of proceedings on August 17, 2004, the Acting Director reopened the applicant's application to replace permanent resident card (Form I-90) and approved the application. He did not however reopen the Form I-131 application.

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 states in pertinent part:

(b) Eligibility.

- (1) Reentry permit. 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 is a lawful permanent resident or conditional permanent resident.

After reviewing the evidence in the record the AAO finds that the applicant has established that she had not abandoned her LRP status and that she is entitled to the requested reentry permit. Accordingly, the appeal will be sustained and the application approved.

ORDER: The appeal is sustained and the application approved.