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

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DEC 30 2004

FILE:  Office: NEBRASKA SERVICE CENTER
(LIN-03-064-51149 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: SELF-REPRESENTED

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.

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 dismissed.

The applicant is a native and citizen of Trinidad, 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 as a matter of discretion after determining that the application has a criminal record with adverse information recorded against him, which may make him inadmissible.

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

(a) Reentry permit.

A reentry permit allows a permanent resident to apply for admission to the United States upon return from abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa.

On appeal, the applicant states that his mother, who resides in Trinidad, needs to travel to the United States for medical reasons and he is her companion and part-time caretaker and therefore he needs the reentry permit in order to be able to travel from and to the United States. In addition the applicant states that his criminal record was a result of his poor judgment and should not be taken in consideration because he was not convicted of any crime.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(e) Processing.

Approval of an application is solely at the discretion of the Service. . . .

As note above the approval of an application is solely at the discretion of the Service and based on the record of proceedings a favorable exercise of the Secretary's discretion is not warranted. Accordingly, the appeal will be dismissed.

It is noted that a lawful permanent resident of the United States who is in possession of evidence of lawful admission (Form I-551) and a valid passport and intends to reenter the United States within one year of his/her last departure may not require a reentry permit to reenter. However, if a lawful permanent resident seeks to reenter after an absence of one year or more, and does not possess a reentry permit, he/she should contact a United States consulate abroad for further information regarding his/her possible options for return to the United States.

ORDER: The appeal is dismissed.