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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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JUL 20 2004

FILE:  Office: NEBRASKA SERVICE CENTER Date:
(LIN-04-004-51888 relates)

IN RE: Applicant: 

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

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.

[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 dismissed.

The applicant is a native and citizen of Ethiopia, who applied to obtain a refugee travel document pursuant to 8 C.F.R. 223.1(b). The Director concluded that the applicant did not hold a valid refugee status under section 207 of 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's Decision* dated January 23, 2004.

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 appeal the applicant states that she needs to travel to Ethiopia but that she never requested a refugee travel document.

A review of the documentation provided reflects that the applicant checked item "b" in Part 2 of her Application for Travel Document (Form I-131) that she filed on October 6, 2003. Item "b" of Part 2 for Form I-131 states: "I now hold U.S. refugee or asylee status and I am applying for a Refugee Travel Document."

A search of the electronic database of Citizenship and Immigration Services (CIS) shows that the applicant does not hold a valid refugee or asylum status under section 207 or 208 of the Act nor is she a lawful permanent resident or conditional permanent resident of the United States in order to be eligible for a reentry permit.

It is unclear why the applicant filed Form I-131 since the record reflects that she is in possession of a valid non-immigrant V-1 visa that will allow her to travel in and out of the United States.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.