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U.S. Citizenship
and Immigration
Services

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FILE:

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Office: NEBRASKA SERVICE CENTER

Date:

IN RE:

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

ON BEHALF OF PETITIONER: 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 on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant seeks to obtain a 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's petition to remove conditions on his conditional permanent resident status had not yet been accepted and approved by the Immigration and Naturalization Service [now Citizenship and Immigration Services].

On appeal, the applicant states that he applied for a travel document in November 2000 in order to visit his mother as soon as possible.

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.

The regulation at 8 C.F.R. § 223.3(a) provides that a reentry permit may be issued to a conditional permanent resident valid for two years from the date of issuance, or to the date the conditional permanent resident must apply for removal of the conditions on his or her status, whichever comes first.

In regard to the filing of petitions to remove conditions on conditional resident status, the regulation at 8 C.F.R. § 216.4(a)(1) states, in pertinent part:

Within the 90-day period immediately preceding the second anniversary of the date on which the alien obtained permanent residence, the alien and the alien's spouse . . . must file a Petition to Remove the Conditions on Residence (Form I-751) . . . Upon receipt of a properly filed Form I-751, the alien's conditional permanent residence status shall be extended automatically, of necessary, until such time as the director has adjudicated the petition.

The second anniversary of the date the applicant obtained conditional permanent resident status, and the date by which he must have applied for removal of the conditions on that status, was March 26, 2001. As of the date on which the director denied the applicant's travel document application (April 26, 2001), the applicant had not yet filed a Form I-751 to remove the conditions on his permanent residence. The applicant's Form I-751 was not filed until February 1, 2002. Therefore, the application must be denied.

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.