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Washington, DC 20536



**U.S. Citizenship  
and Immigration  
Services**



**MAR 18 2004**

FILE:



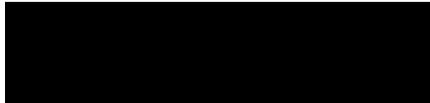
Office: NEBRASKA SERVICE CENTER

Date:

(LIN-01-197-56815 relates)

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 Cameroon, 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's petition to remove the conditions on her status had not been filed within the 90-day period immediately preceding the second anniversary date on which she obtained permanent residence, nor had the application yet been approved. *See Director Decision* dated July 24, 2001.

On appeal, the applicant states that she obtained lawful permanent residence on a conditional basis and that her petition to remove the conditions on her status is still pending. She asks that she be granted advance parole for six months in order to travel abroad for emergent reasons.

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) states in pertinent part:

*a) Validity. (1) Reentry permit.* Except as provided in Sec. 223.2(c)(2), a reentry permit issued to a permanent resident shall be valid for 2 years from the date of issuance. A reentry permit issued to a conditional permanent resident shall be valid for 2 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.

With regard to the filing of applications to remove conditions on conditional resident status, 8 C.F.R. 216(a)(a)(1) states in pertinent part:

a) Filing the petition -- (1) General procedures. 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 resident status shall be extended automatically, if necessary, until such time as the director has adjudicated the petition.

The record of proceeding reflects that the second anniversary of the date the applicant obtained conditional permanent resident status, and the date by which she must have applied for removal of the conditions on that status, was September 20, 1993. The record further reflects that the applicant did not file a petition to remove the conditions on her status until September 17, 1999.

Although there is no requirement that an application for removal of conditions be adjudicated in order for the applicant to be eligible for issuance of a reentry permit, the application must have been timely filed. Because the applicant did not timely file a Form I-751, the application for a reentry permit must be denied.

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.