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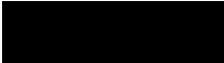
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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



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



FILE:  Office: NEBRASKA SERVICE CENTER
(LIN-01-108-51111 relates)

MAR 24 2004
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 the Dominican Republic, 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-period immediately preceding the second anniversary date on which she obtained permanent residence.

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)(1) provides that 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.

The regulation at 8 C.F.R. § 216.4(a)(1) requires a conditional permanent resident to file a Petition to Remove the Conditions on Residence (Form I-571) within the 90-day period immediately preceding the second anniversary of the date on which the alien obtained his or her conditional permanent resident status.

The regulation at 8 C.F.R. § 216.4(a), states in pertinent part:

(2) Dependent children. Dependent children of a conditional permanent resident who acquired conditional permanent resident status concurrently with the parent may be included in the joint petition filed by the parent and the parent's petitioning spouse. A child shall be deemed to have acquired conditional residence status concurrently with the parent if the child's residence was acquired on the same date or within 90 days thereafter. Children who cannot be included in a joint petition filed by the parent and parent's petitioning spouse due to the child's not having acquired conditional resident status concurrently with the parent, the death of the parent, or other reasons may file a separate Petition to Remove the Conditions on Residence (Form I-751).

The record reflects that the applicant is the dependent child of a conditional permanent resident. The applicant's mother obtained her conditional permanent residence status on August 19, 1997. On appeal, the mother submits evidence she timely filed a Form I-571 for removal of the condition on her permanent residence on July 15, 1999.

The record further reflects that the applicant obtained conditional permanent residence status on February 9, 1999. This date is neither concurrent with the date of the applicant's mother acquired such status (on August 19, 1997) nor within 90 days thereafter. Therefore, the applicant is required to file a separate Form I-571 to remove the conditions on her status. The record, however, contains no evidence to establish that the applicant filed a separate Form I-571 within the required time period, from November 9, 2000 through February 9, 2001. Therefore, the application 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.