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U.S. Citizenship  
and Immigration  
Services

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MAR 26 2004

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER  
(LIN-03-175-52648 relates)

Date:

IN RE: Applicant: [REDACTED]

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.

*Robert P. Wiemann*

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 Mauritania, who seeks 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 Immigration and Nationality Act (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 Decision* dated September 2, 2003.

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.

On appeal, dated September 30, 2003 the applicant states that he needs to travel to Gambia to visit his sister who was admitted in the hospital. He presented a copy of his advance parole Form I-512 and states that he was interviewed for asylum but he has not received a decision.

Records of Citizenship and Immigration Services (CIS) indicate that the applicant received asylum status on October 28, 2003, more than five months after filing his application for a refugee travel 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.

The record of proceeding reveals that the Application for Travel Document (Form I-131) was filed on May 8, 2003. As mentioned above the applicant received asylum status on October 28, 2003. Since the applicant did not possess valid asylum status under section 208 of the Act, at the time of filing the application he is not eligible to receive a refugee travel document based on the current application.

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.

This decision is without prejudice to the applicant filing a new application now that he has been granted asylum.

**ORDER:** The appeal is dismissed.