



U.S. Citizenship
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-05-128-50765 relates)

Date: DEC 16 2005

IN RE: Applicant: [REDACTED]

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 Acting 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 Iraq, 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 Acting Director denied the application as a matter of discretion after determining that the applicant has adverse information recorded against him. See *Acting Director's Decision* dated May 7, 2005.

The regulation at 8 C.F.R. § 223.1 states in pertinent part:

(a) Reentry permit.

A reentry permit allows a permanent resident to apply for admission to the United States upon return from abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa.

The record of proceedings indicates that on October 26, 2004, the applicant applied for admission into the United States as a returning lawful permanent resident. Customs and Border Protection (CBP) deferred the applicant's inspection to December 16, 2004. At the time of adjudication of the Application for Travel Document (Form I-131) the deferred inspection was still pending and the Acting Director denied the Form I-131 as a matter of discretion.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(e) Processing.

Approval of an application is solely at the discretion of the Service. . . .

On appeal, the applicant states that he appeared at CBP, at the airport, and he was assured that everything was cleared. The applicant further states that he was told that the system was updated as of May 19, 2005. The applicant did not present any documentation indicating that his deferred inspection was no longer pending.

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. After a careful review of the record, it is concluded that the applicant has failed to establish that a favorable exercise of the Secretary's discretion is warranted. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.