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**U.S. Citizenship
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FILE:  Office: NEBRASKA SERVICE CENTER Date: **FEB 16 2005**
(LIN-03-190-52316 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 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 Indonesia, 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 concluded that the applicant did not hold a valid lawful permanent resident or conditional at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated August 10, 2004.

The applicant completed Part 2, box a, on her Application for Travel Document (Form I-131) that states:

I am a permanent resident or conditional resident of the United States and I am applying for a Reentry Permit.

In pertinent part, section 223 of the Act provides that an alien lawfully admitted for permanent residence who intends to visit abroad and return to the United States to resume that status may make an application for a permit to reenter the United States.

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

(b) Eligibility.

(1) Reentry permit. 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 is a lawful permanent resident or conditional permanent resident.

The applicant's Form I-131 was properly filed with the Service Center on May 30, 2003. The Acting Director denied the Form I-131 because at the time the applicant had a pending Application to Register Permanent Residence or Adjust Status (Form I-485) and therefore she was not a lawful or conditional permanent resident of the United States. On appeal filed on September 13, 2004, the applicant asks for the issuance of a reentry permit in order to visit her ailing father in Indonesia. The applicant further states that she will be submitting a separate brief and or evidence to the AAO within 30 days. To this date approximately five months later no documentation has been received by the AAO.

A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant adjusted her status to that of a lawful permanent resident as a F2-6 (spouse of a LPR) on September 18, 2004. Pursuant to the regulation at 8 C.F.R. § 223.2 the applicant is not eligible to receive a reentry permit based on her application filed on May 20, 2003 as she was not a lawful permanent resident at the time the application was filed.

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 filing of a new Form I-131 for a reentry permit now that the applicant is a lawful permanent resident of the United States.

ORDER: The appeal is dismissed.