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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **JUL 06 2005**

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 sustained and the application approved.

The applicant is a native and citizen of Vietnam, 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 January 14, 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 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. . . .

In his decision the Acting Director noted that the decision is without prejudice of filing a new application with the proper fee upon receiving a favorable decision from the Immigration Judge.

On appeal the applicant submits a copy of the Immigration Judge's order dated August 5, 2002. The Immigration Judge granted the applicant a waiver under section 212(c) of the Immigration and Nationality Act, (the Act), which states in pertinent part:

Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) . . .

A search of the electronic records of Citizenship and Immigration Services (CIS) does not reveal any appeal filed by the Immigration and Naturalization Service, now CIS. The applicant was granted relief prior to the filing of the Form I-131. He did hold valid lawful permanent residence status at the time the application was filed and he was granted a waiver regarding the adverse information in his case. Therefore the applicant is entitled to the requested reentry permit. Accordingly, the appeal will be sustained and the application approved.

ORDER: The appeal is sustained and the application approved.