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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-04-060-52634 relates)

Date: JUL 11 2005

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

ON BEHALF OF APPLICANT:



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 China, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The Acting Director concluded that on September 15, 2003, the applicant was granted conditional asylum status and therefore 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 Acting Director's Decision* dated October 25, 2004.

On appeal, counsel submits a brief and a copy of an Immigration Judge's decision. In her brief counsel asserts that the Acting Director erroneously denied the application for a refugee travel document. In support of her assertions counsel submits a copy of the Immigration Judge's decision dated September 15, 2003, that indicates that the applicant was granted asylum status.

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 regulation at 8 C.F.R. § 103.2 states in pertinent part:

(b) Evidence and processing. (1) General. An applicant or petitioner must establish eligibility for a requested immigration benefit. An application or petition form must be completed as applicable and filed with any initial evidence required by regulation or by the instructions on the form. Any evidence submitted is considered part of the relating application or petition.

A review of the applicant's Service file reveals that on September 15, 2003, an Immigration Judge granted the applicant asylum status. The Immigration Judge's decision does not indicate that the applicant received a conditional grant of asylum or that she was subject to the cap related to a conditional grant of asylum. It is noted that CIS computer records do seem to indicate that the applicant's asylum grant was conditional, but that entry is apparently an error. The AAO further notes that conditional grants of asylum are issued to applicants who apply for asylum based on a claim of coercive family planning (CFP). The applicant's asylum claim was based on her Christian faith, not CFP, therefore, a conditional grant would not have been issued in this case.

After reviewing the evidence in the record of proceedings and the applicant's Service file the AAO finds that the applicant has established that she is entitled to the requested refugee travel document. Accordingly, the appeal will be sustained and the application approved.

ORDER: The appeal is sustained and the application approved.