



U.S. Citizenship
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Services

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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER
(LIN-05-011-52698 relates)

Date: JUL 15 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:
[Redacted]

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 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 February 15, 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.

On appeal counsel states that the decision is based on speculative events such as "applicant may be deportable" or "he may be inadmissible upon his return". Counsel states that the applicant has not been determined as deported or subject to a court order to be deported and has not been determined as "inadmissible to the US upon his return". In addition counsel states that the applicant is a law-abiding citizen of the United States and he is engaged in meaningful employment. Furthermore counsel states that the applicant's employer needs the applicant to travel overseas in order to take care of company business.

A search of the electronic records of Citizenship and Immigration Services (CIS) reveals that the applicant has a criminal record. Counsel does not dispute this fact.

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. . . .

As note above the approval of an application is solely at the discretion of the Service and based on the record of proceedings a favorable exercise of the Secretary's discretion is not warranted. Accordingly, the appeal will be dismissed.

It is noted that a lawful permanent resident of the United States who is in possession of evidence of lawful admission (Form I-551) and a valid passport and intends to reenter the United States within one year of his/her last departure may not require a reentry permit to reenter.

ORDER: The appeal is dismissed.