

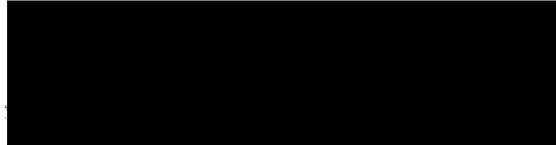
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-04-209-52169 relates)

Date: **MAR 07 2005**

IN RE: Applicant: [REDACTED]

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

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

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 Nepal, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. 223.1(b). The Acting Director concluded that the applicant 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 August 16, 2004.

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

I now hold U.S. refugee or asylee status and I am applying for a Refugee Travel Document.

On appeal the applicant states that needs to travel outside the United States in order to visit his sick daughter whom he has not seen for more than three and a half years. In addition the applicant states that the decision is not fair and that the right to travel is the privilege of a person

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

(b) Refugee travel document. A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in § 223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document.

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.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) fail to establish that the applicant holds a valid refugee or asylum status under section 207 or 208 of the Act. The record further reveals that the applicant applied for asylum status but his application was referred to an Immigration Judge on February 4, 2002. CIS' electronic database further reveals that on January 28, 2005, an Immigration Judge issued a final removal order. The applicant has failed to establish that he holds a valid refugee or asylum status under section 207 or 208 of the Act. Absent such evidence, the application may not be approved.

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

ORDER: The appeal is dismissed.