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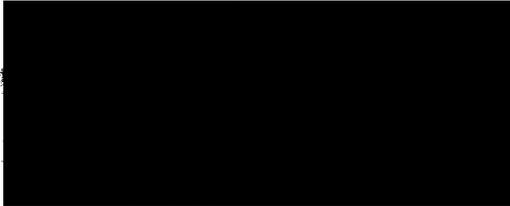
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

I2



FILE:



Office: NEBRASKA SERVICE CENTER

Date: MAY 24 2005

(LIN-03-258-52547 relates)

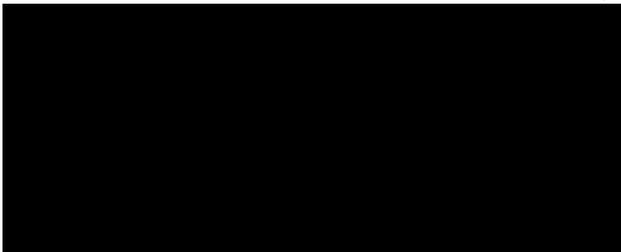
IN RE: Applicant:



APPLICATION:

Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT:



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 Israel, 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 valid lawful permanent or conditional resident status at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated October 28, 2004.

The applicant completed Part 2, box a, on his 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 travel 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.

On appeal, applicant's representative states that the applicant is a conditional resident and is eligible to receive a travel document. The representative submits a copy of an Authorization for Parole of an Alien into the United States (Form I-512) previously issued to the applicant. The Form I-512 reveals that the applicant was paroled into the United States on February 3, 2004, to resume his application for adjustment of status.

A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant has a pending Application to Register Permanent Residence or Adjust Status (Form I-485) and therefore he is not a lawful permanent or conditional resident of the United States. 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.

As noted above the applicant was paroled into the United States on February 3, 2004, based on a Form I-512 issued by the CIS office in Charleston, South Carolina. The applicant may be eligible for another advance parole. Therefore the decision is without prejudice to the filing of a new Form I-131 for advance parole if the applicant completes the appropriate box on the application.

ORDER: The appeal is dismissed.