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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **MAY 24 2005**

(LIN-03-215-52552 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:

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 dismissed.

The applicant is a native and citizen of Mexico, who filed an Application for Travel Document (Form I-131) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The Acting Director concluded that the applicant filed the Form I-131 on behalf of another individual who does not hold valid lawful permanent or conditional residence status and denied the application accordingly. *See Acting Director's Decision* dated October 25, 2004.

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 the applicant states she wants her daughter in the United States so she can finish school and receive financial support from the applicant.

The record of proceeding reveals that the individual who submitted the Form I-131 is a lawful permanent resident of the United States. A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant's daughter, the individual for whom the Form I-131 was filed, is not a lawful permanent resident 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.

ORDER: The appeal is dismissed.