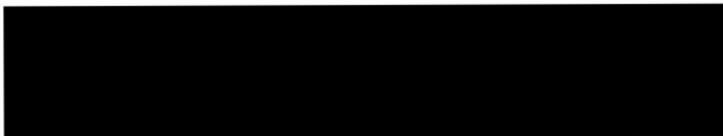


identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



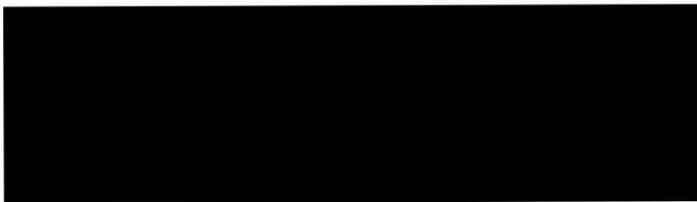
La

FILE: Office: NEBRASKA SERVICE CENTER Date: **APR 10 2006**
(LIN-05-001-50715 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 Korea, 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 is in possession of a valid reentry permit and he is not entitled to be issued a new reentry permit at this time. *See Acting Director's Decision* dated June 30, 2005.

On appeal, counsel submits an affidavit from the applicant. In his affidavit, the applicant states that he filed an Application for Travel Document (Form I-131) on October 21, 2002, in which he requested that the reentry permit be forwarded to an address abroad. The applicant further states that since he did not receive any documentation regarding his application he submitted another one on October 1, 2004. Finally, the applicant states that if he had received the first reentry permit he would not have filed another application, which requires time, effort and money.

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.

. . . .

(c) Ineligibility.

(1) Prior document still valid. An application for a reentry permit or refugee travel document shall be denied if the applicant was previously issued a reentry permit or refugee travel document which is still valid, unless it was returned to the Service or it is demonstrated that it was lost.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant was issued a reentry permit on February 26, 2004, valid until February 26, 2006. The CIS database indicates that the reentry permit was forwarded to the applicant's address in the United States on February 27, 2004. As noted on the instructions on the Form I-131 a reentry permit cannot be forwarded to an overseas address, unless it is being picked up at a United States embassy or consulate, or a Department of Homeland Security office overseas. The applicant filed the instant Form I-131 on October 1, 2004. The instructions on Form I-131 clearly indicate that a reentry permit may not be issued if the applicant was previously issued one that is still valid, has not been returned to the Service Center and has not been demonstrated as lost. Since the previously issued reentry permit was never returned to the Service Center and it has not been demonstrated as lost, the instant 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

The decision is without prejudice to the filing of a new Form I-131, since the previously issued reentry permit is no longer valid.

ORDER: The appeal is dismissed.