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FILE:  Office: NEBRASKA SERVICE CENTER Date: AUG 04
(LIN-06-060-51465 relates)

IN RE: Applicant: 

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, Chief
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 Peru, who seeks to obtain a Refugee Travel Document (RTD) pursuant to 8 C.F.R. § 223.1(b). The Acting Director concluded that the applicant is in possession of a RTD and, therefore, he is not entitled to be issued a new one. *See Acting Director's Decision* dated February 28, 2006.

On appeal, the applicant states the he filed an Application for Travel Document (Form I-131) in order to renew his RTD. He was requested to surrender his previously issued document but states that he needed it because he is employed as a pilot and required to fly to South America, Europe and Africa. In addition, the applicant states that he needs a new RTD before the expiration of the one he has because he would not be able to perform his duties. Furthermore, the applicant states that he applied for a RTD four times and he always submitted a copy of his RTD with an explanation of his special situation as a pilot and RTDs were granted. Finally, the applicant requests that the Service approve his Form I-131 as is extremely important in his nature of work.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(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.

The record of proceedings reflects that the applicant was issued a RTD on June 8, 2005, valid until June 8, 2006. The instructions on Form I-131 clearly indicate that a RTD 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. The applicant filed the instant Form I-131 on December 20, 2005.

Notwithstanding the arguments on appeal, the fact remains that the Form I-131 was filed while the applicant was in possession of a valid RTD. There is no exception provided by the Act regarding the return of a previously issued valid RTD to the Service Center before a new one can be issued.

The instant application cannot be approved because the previously issued RTD was never returned to the Service Center nor has it been demonstrated that it was lost.

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 RTD is no longer valid.

ORDER: The appeal is dismissed.