



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-05-108-53463 relates)

Date: JUL 26 2006

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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 The Acting Director's decision will be withdrawn and the matter remanded to her for further consideration.

The applicant is a native and citizen of Canada, 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 residence status at the time the application was filed and denied the application accordingly. See *Acting Director's Decision* dated September 27, 2005.

The applicant completed Part 2, box a, on her 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.

Section 223 of the Act provides, in pertinent part, that an alien lawfully admitted for permanent residence who intends to visit 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, counsel submits a brief in which she states that the Form I-131 was denied based on incorrect consideration that the application was for a reentry permit, when in fact the application was for an advance parole. Counsel states that the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485) and a Form I-131 on February 6, 2005. Counsel further states that along with her Form I-131 the applicant submitted a cover letter in which she stated: "I am applying for advance parole document . . ." In addition, counsel states that although the applicant mistakenly checked Part 2 box a of the Form I-131 she also completed Part 7 of the Form I-131 which relates to advance parole. Therefore, according to the regulations at 8 C.F.R. § 103.2(b)(8) the Nebraska Service Center should have requested additional evidence regarding the applicant's intent for her Form I-131. Based on the above, counsel requests that the Form I-131 be granted and the applicant be issued an advance parole document.

Counsel submits a copy of the applicant's cover letter submitted with the Form I-131 in which she states that she is applying for advance parole while awaiting adjustment of status. In addition, the record of proceedings reflects that the applicant completed Part 7 of the Form I-131 that states:

Part 7. Complete only if applying for advance parole.

In view of the foregoing, the previous decision of the Acting Director will be withdrawn. The application will be remanded to the Acting Director in order to determine if the applicant is eligible for advance parole and enter a new decision, which, if adverse to the applicant, will be certified to the AAO for review.

ORDER: The Acting Director's decision is withdrawn. The matter is remanded to her for further action consistent with the foregoing discussion.