

**PUBLIC COPY**



U.S. Citizenship  
and Immigration  
Services

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



*IA*

**MAR 16 2006**

FILE:



Office: NEBRASKA SERVICE CENTER

Date:

(LIN-05-141-50570 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 the Philippines 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 denied the application after determining that the application was filed after the applicant had departed the United States. *See Director's Decision* dated September 23, 2005.

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.

The record of proceeding reveals that on April 4, 2003, the applicant was admitted into the United States as a lawful permanent resident. On May 16, 2003, the applicant filed an Application for Travel Document (Form I-131) with the Nebraska Service Center. The application was approved and a reentry permit was forwarded to the applicant's address on July 21, 2004. The applicant's mother states that the applicant never received the reentry permit and filed a new Form I-131 on April 8, 2004, while residing in the Philippines. The Acting Director denied this application on September 23, 2005.

On appeal, the applicant's mother states that a Form I-131 was filed by the applicant before he departed the United States. The applicant's mother was informed that the application was approved and a reentry permit was forwarded to their old address. In addition, the applicant's mother states that although she had informed the U.S. Postal Service of her change of address the reentry permit was never delivered to her new address. Furthermore, she states that a new Form I-131 was filed and received by the Nebraska Service Center on April 8, 2005.

The fact remains that the applicant did not receive the reentry permit, which was approved and forwarded to his old address and a new Form I-131 was filed while he was residing in the Philippines.

A reentry permit cannot be issued because the Form I-131, in the instant case, was filed after the applicant departed the United States. No exception regarding physical presence in the United States at the time of filing a Form I-131 is provided by the Act. Since the application was not properly filed until after the applicant had departed the United States, the application may not be approved as a matter of law.

If a lawful permanent resident seeks to reenter the United States and does not possess a reentry permit, he or she should contact a United States consulate abroad for further information regarding his or her possible options for return to the United States.

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.