

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



Je

FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: **OCT 25 2006**
(LIN-06-071-51074 relates)

IN RE: Applicant: [Redacted]

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 Mexico, who seeks to obtain a Refugee Travel Document pursuant to 8 C.F.R. § 223.1(b). The Acting Director concluded that the applicant did not hold valid refugee status under section 207 of the Act, or valid asylum status under section 208 of the Act, or permanent resident status as a direct result of his refugee or asylee status at the time the application **was** filed and denied the application accordingly. *See Acting Director's Decision* dated May 10, 2006.

The applicant completed Part 2, box b, on her Application for Travel Document (Form I-131) that states:

I now hold U.S. refugee or asylee status and I am applying for a Refugee Travel Document.

The regulation at 8 C.F.R. § 223.1 states in pertinent part:

(b) Refugee travel document. A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in § 223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) states:

General. 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 either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

On appeal, the applicant states that she has four U.S. citizen children and wishes to be able to travel back and forth to Mexico.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) fail to establish that the applicant holds a valid refugee or asylum status under section 207 or 208 of the Act. Documentation submitted by the applicant reflects that she has a pending Application to Register Permanent Residence or Adjust Status (Form I-485) and, therefore, she is not yet a lawful permanent 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 eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

As noted above, the applicant has a pending Form I-485 and she may be eligible for advance parole. Therefore, the decision is without prejudice to the filing of a new Form I-131 for advance parole if the applicant completes the appropriate box on the application.

ORDER: The appeal is dismissed.