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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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*[Handwritten initials]*

FILE:  Office: NEBRASKA SERVICE CENTER Date: **OCT 25 2006**  
(LIN-04-232-57230 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.

*[Handwritten signature]*

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 Colombia, 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 had abandoned his status and did not hold valid lawful permanent or conditional resident status at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated February 25, 2006.

The applicant completed Part 2, box a, on his 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, the applicant states that he never abandoned his status. In addition, the applicant states that he remained in Colombia for over one year because his spouse was ill. Additionally, the applicant states that when he appeared at the American Consulate, a consular officer took his alien registration card and told him, "you have no green card anymore." Finally, the applicant states that he never gave up his resident card voluntarily.

The AAO notes that the electronic database of Citizenship and Immigration Services reflects that the applicant abandoned his status, but it is unclear from the record of proceeding if the applicant executed an Abandonment of Lawful Permanent Resident Status (Form I-407).

The regulation at 8 C.F.R. § 211 states in pertinent part:

3. Expiration of immigrant visas, reentry permits, refugee travel document, and Form I - 551.

An immigrant visa, reentry permit, refugee travel document, or Form I - 551 shall be regarded as unexpired if the rightful holder embarked or enplaned before the expiration of his or her immigrant visa, reentry permit, or refugee travel document, or with respect to Form I - 551, before the first anniversary of the date on which he or she departed from the United States, . . . .

The fact remains, and the applicant does not dispute the circumstances, that he remained outside of the United States for a period of over one year and, therefore, his Alien Registration Card (Form I-551) expired. Consequently, at the time he filed the Form I-131 he was not a lawful permanent or conditional resident of the United States. In addition, the AAO notes that it appears that the applicant was in Colombia at the time he filed the Form I-131 and pursuant to the regulation at 8 C.F.R. § 223.2 he is not eligible to receive a reentry permit.

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.

**ORDER:** The appeal is dismissed.