

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

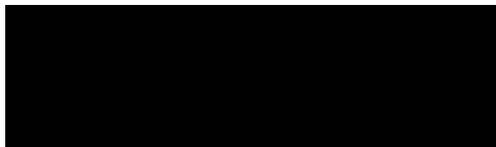
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

I₂

PUBLIC COPY



FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-06-072-51456 relates)

Date: **SEP 26 2006**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 Haiti, 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 June 13, 2006.

The applicant completed Part 2, box b, on his 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 he was paroled into the United States and submits a copy of his Form I-94, a copy of his Employment Authorization Card (EAD) and a copy of his birth certificate. In addition, the applicant states that he applied for permanent resident status, but had a problem with his birth certificate. The applicant requests that his case be reopened.

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 and CIS database reveal that the applicant has a pending Application to Register Permanent Residence or Adjust Status (Form I-485) and, therefore, he is not 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 that the applicant is eligible 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 he 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.