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**U.S. Citizenship
and Immigration
Services**

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LR

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date: **FEB 14 2008**

IN RE:

[REDACTED]

APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

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 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 Cuba, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The 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 Director's Decision* dated January 24, 2007.

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, counsel states that the applicant has been paroled to remain indefinitely in the United States and as such must hold some type of status, which would allow him to travel outside the United States. *Counsel's Brief*, dated August 8, 2007. Counsel explains that the applicant previously filed an Application to Register Permanent Residence, (Form I-485) pursuant to the Cuban Adjustment Act, but his application was denied. *Id.*

The AAO notes that the record shows that the applicant applied for permanent residence on February 7, 2006 as a citizen of Cuba admitted or paroled into the United States after January 1, 1959, and thereafter having been physically present in the United States for at least one year. *Form I-485*, dated February 2, 2006. On July 24, 2006, the applicant's Form I-485 was denied and he was found inadmissible under section 212(a)(6)(c) of the Act for having attempted to procure admission to the United States by fraud on October 4, 1986. *Form I-485 Decision*, dated July 24, 2006. He was also found inadmissible under section 212(a)(6)(E) of the Act as he had been convicted on October 6, 1986 in the United States District Court, Southern District of California for aiding, abetting and assisting aliens in eluding inspection and examination. *Id.*

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 valid refugee or asylee status under section 207 or 208 of the Act, or permanent resident status as a direct result of his refugee or asylee status. CIS records indicate that the applicant was paroled into the United States on September 19, 1980 as a "Cuban-Haitian Entrant (Status Pending)" and he retains this classification. Absent evidence that the applicant holds refugee or asylee status, 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.

ORDER: The appeal is dismissed.