



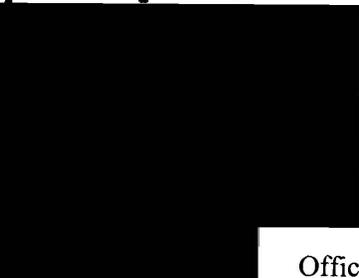
U.S. Citizenship
and Immigration
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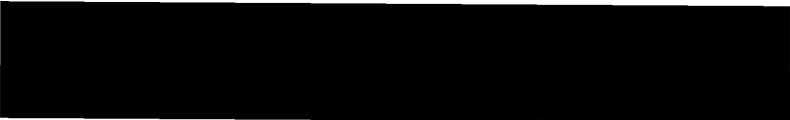


Office: NEBRASKA SERVICE CENTER

Date: MAR 03 2008

LIN-06-250-50812

IN RE:



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, 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 Peru 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 Director denied the application after determining that the application was filed after the applicant had departed the United States. *See Director's Decision*, dated May 10, 2007.

Section 223 of the Act provides 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 reflects that the applicant is a lawful permanent resident of the United States. On August 23, 2006, the applicant filed an Application for Travel Document (Form I-131) with Citizenship and Immigration Services. On November 29, 2006, the Director requested that the applicant submit evidence documenting that he had been in the United States at the time he filed the Form I-131. In response, the applicant reported that he had left the United States on April 24, 2006. *Annotated Director's Request for Evidence*, received January 26, 2007.

On appeal, the applicant states that the application was originally sent to the Missouri Service Center before April 15, 2006, but was rejected for being submitted to the incorrect address. The applicant states that the returned envelope was received on August 3, 2006 and that his assistant then sent the application to the correct address on August 7, 2006. He states that he would like to move with his family to the United States. *Letter from Applicant*, dated June 4, 2007.

The fact remains that the Form I-131 was filed after the applicant departed the United States. The Act provides no exception regarding the physical presence requirement at the time of filing a Form I-131. Since the application was not 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 after an absence of one year or more, and does not possess a reentry permit, he/she should contact a United States consulate abroad for further information regarding 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 eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.