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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 03 2004
(LIN-04-029-50095 relates)

IN RE: Applicant: [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, Director
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 sustained and the application approved.

The applicant is a native and citizen of China, 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 a valid refugee status under section 207 of the Act or valid asylum status under section 208 of the Act at the time the application was filed and denied the application accordingly. *See Director's Decision* dated April 15, 2004.

On appeal, counsel submits a brief and copies of an Immigration Judge's decision and Form I-94. In her brief counsel asserts that the director erroneously denied the application for a refugee travel documents. In support of her assertions counsel submits a copy of the Immigration Judge's decision and a copy of the applicant's Form I-94. Both indicate that the applicant was granted asylum status pursuant to section 208 of the Act and that she is not subject to the cap related to a conditional grant of asylum.

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.

The regulation at 8 C.F.R. § 103.2 states in pertinent part:

> *(b) Evidence and processing. (1) General.* An applicant or petitioner must establish eligibility for a requested immigration benefit. An application or petition form must be completed as applicable and filed with any initial evidence required by regulation or by the instructions on the form. Any evidence submitted is considered part of the relating application or petition.

A review of the record of proceedings reveals that on March 21, 2001, an Immigration Judge granted the applicant asylum status and clearly noted that she is not subject to the cap. In addition, the Form I-94 issued on May 1, 2001 by the Los Angeles office indicates that the applicant was granted asylum status indefinitely pursuant to section 208 of the Act. An I-94 is not issued to an applicant who has received a conditional grant of asylum. In addition, the record of proceedings reveals that a previous refugee travel document was issued on behalf of the applicant on May 10, 2002.

After reviewing the evidence in the record the AAO finds that the applicant has established that she is entitled to the requested refugee travel document. Accordingly, the appeal will be sustained and the application approved.

ORDER: The appeal is sustained and the application approved.