U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

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U.S. Citizenship and Immigration Services

[redacted]

I-2

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 04 2004
(LIN-03-190-50936 relates)

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.

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 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 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 March 5, 2004.

The applicant completed Part 2, box b, on her 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, filed on March 22, 2004, the applicant states that he will need 30 days to file a brief and/or evidence to the AAO. The applicant further states that he needs the travel document in order to visit his family in France. To this day, more than three months later, no additional documentation has been received by the AAO.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) fails to establish that the applicant holds a valid refugee or asylum status under section 207 or 208 of the Act. 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

The record reveals that the applicant has a pending Application to Register Permanent Residence or to Adjust Status, (Form I-485) and may be eligible for advance parole. The AAO notes that the applicant was previously granted advance parole on February 28, 2001. 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.