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

PUBLIC COPY

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

L2

JUL 20 2004

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
(LIN-04-063-55370 relates)

IN RE: Applicant: [redacted]

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, 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 Sweden, 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 concluded that the applicant did not hold a valid lawful permanent resident or conditional resident status at the time the application was filed and denied the application accordingly. *See Director's Decision* dated April 6, 2004.

In pertinent part, 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 reveals that on July 7, 2003, the applicant was admitted into the United States as a visitor for pleasure. On November 23, 2003, he married a U.S. citizen and on January 15, 2004, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485). As of this date his application is pending and he has not adjusted his status to that of a lawful permanent or conditional resident. On February 3, 2004 the applicant filed an Application for Travel Document (Form I-131).

On appeal, the applicant submits a copy of his I-94 that shows that he entered as a B-2 visitor for pleasure, a copy of his certificate of marriage, copies of his and his spouse's passports and Form G-325. He states that he needs a reentry permit in order to travel to Sweden to visit his parents and to know that he can travel to Sweden in case of any emergency.

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 is a lawful permanent resident or conditional permanent resident of the United States. Since at the time the applicant filed the Form I-131 he was neither a lawful permanent nor a conditional resident of the United States the application cannot 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 decision is without prejudice to the filing of a new Form I-131 if the applicant becomes a permanent or conditional resident of the United States.

ORDER: The appeal is dismissed.