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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
(LIN-03-196-53008 relates)

OCT 26 2004

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

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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

identifying data deleted to
prevent [illegible] warranted
invasion of personal privacy

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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 a valid refugee status under section 207 of the Immigration and Nationality Act (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 September 11, 2003.

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.

On appeal the applicant states that he needs a legal document in order to be able to identify himself. The applicant submits copies of his social security card, his birth certificate, his I-94 issued in 1964, his New York State Benefit Identification card and his Medicare health insurance card. In his original Form I-131 and in a statement he submitted the applicant states that he needs a travel document in order to travel to the Dominican Republic to visit relatives and friends.

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.

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 a valid refugee or asylum status under section 207 or 208 of the Act. The applicant's Form I-94 shows that he was paroled into the United States on May 10, 1964, but there is no record that he ever applied for adjustment of status or for asylum. The applicant has failed to establish that he 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 AAO notes that if the applicant wishes to travel outside the United States he may be eligible for advance parole. 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. If the applicant wants a document for identification purposes he should contact the CIS office that has jurisdiction over his place of residence and request a Form I-94 with his picture affixed to it.

ORDER: The appeal is dismissed.