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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

F2

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: SEP 15 200
(LIN-04-009-51589 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 El Salvador, 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 June 1, 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.

On appeal the applicant states that she is entitled to a travel document because she is included in her husband's asylum application and she submits copies of Citizenship and Immigration Services (CIS) press release and information from CIS' website. The press release submitted refers to advance parole for individuals who have applied for adjustment of status. The website information is in reference to benefits under the American Baptist Churches V. Thornburgh (ABC) settlement agreement.

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 CIS reveal that the applicant is included in her spouse's asylum application. The asylum application is still pending with CIS and no decision has been made. The applicant has failed to establish that she 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 the applicant 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.

ORDER: The appeal is dismissed.