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

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[redacted]

APR 25 2005

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
(LIN-04-079-53389 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 Acting 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 Germany, 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 Acting Director concluded that the applicant did not hold valid lawful permanent or conditional residence status at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated October 27, 2004.

The applicant completed Part 2, box a, on her Application for Travel Document (Form I-131) that states:

> I am a permanent resident or conditional resident of the United States and I am applying for a Reentry Permit.

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.

On appeal the applicant states that when his Alien Registration Card (ARC) expired, he contacted an attorney who informed him the Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) misplaced his filed during a move. He further states that he has been residing in the United States for half of his live, he has established credit, bought a house and if he were forced to move back to Germany it would cause him extreme hardship. Finally the applicant asks that his appeal be reviewed and his application reconsidered.

A search of the electronic database of CIS reveals that an Application for Waiver of Requirement to File Joint Petition for Removal of Conditions (Form I-752) filed by the applicant was denied on June 8, 1990. Therefore the applicant is not a lawful permanent or conditional resident of the United States. 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

ORDER: The appeal is dismissed.