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

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: MAR 05 2007  
(LIN-06-004-50331 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, Chief  
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 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 Acting Director denied the application after determining that the application was filed after the applicant had departed the United States. *See Acting Director's Decision* dated March 15, 2006.

Section 223 of the Act provides, in pertinent part, 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 March 7, 1996, the applicant was admitted into the United States as a lawful permanent resident. The record further indicates that the applicant departed the United States on August 7, 2005. On September 29, 2005, while residing in Sweden, the applicant signed a Form I-131, which was subsequently mailed to the Nebraska Service Center and filed on October 6, 2005. Therefore, the Form I-131 was filed after the applicant departed the United States.

On appeal, the applicant states that he accepted an assignment overseas which he expected would be completed within one year and, therefore, he did not file an application for a reentry permit prior to his departure. The applicant further states that he filed a Form I-131 because he needs more time to complete his assignment in Europe. In addition, the applicant states that he travels frequently between Europe and the United States. Finally, the applicant states that he maintains a banking account and a retirement fund in the United States, and he files income tax returns in Europe and the United States.

The fact remains that the Form I-131 was filed after the applicant departed the United States. The Act provides no exception regarding the physical presence requirement at the time of filing a Form I-131. Since the application was not filed until after the applicant had departed the United States, the application may not be approved as a matter of law.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.