

**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**

(b)(6)



Date: **AUG 04 2014**

Office: NEBRASKA SERVICE CENTER FILE: [REDACTED]

IN RE:           Applicant: [REDACTED]

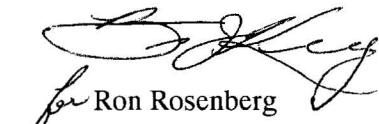
APPLICATION:      Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT:      Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

  
for Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service denied the application for a reentry permit (Form I-131), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The application will remain denied.

The applicant is a native and citizen of the United Kingdom who seeks to obtain a reentry permit under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. On March 31, 2014, the director denied the application after determining that it was filed after the applicant had departed from the United States.

Section 223 of the Act, 8 U.S.C. § 1203, 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(b) states, in pertinent part, that an application for a reentry permit may be approved if it is "*filed by a person who is in the United States at the time of application.*" (Emphasis added).

The applicant was admitted into the United States as a lawful permanent resident on December 9, 1993. The applicant departed the United States on September 11, 2013 and returned on December 17, 2013. The Application for Travel Document (Form I-131) was filed on November 18, 2013, with U.S Citizenship and Immigration Services (USCIS). The applicant indicated her date of departure from the United States at Part 3.1 as December 12, 2013; however, she mailed the application from Ontario, Canada on November 13, 2013.

The director denied the Form I-131 because the applicant was not present in the United States when she filed her application. On appeal, the applicant does not dispute that she filed the Form I-131 while outside of the United States. She explains that the purpose for filing the current Form I-131 was to replace her previous Form I-131. The applicant states that she temporarily relocated to Canada to care for an ailing grandmother.

To be eligible for a reentry period, an applicant must be physically present in the United States at the time the Form I-131 is filed with USCIS. 8 C.F.R. § 223.2(b). Here, it is undisputed that the applicant filed the Form I-131 while she was physically present in Canada. Accordingly, the application may not be approved as a matter of law.<sup>1</sup>

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 is dismissed.

**ORDER:** The appeal is dismissed. The application remains denied.

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<sup>1</sup> If a lawful permanent resident seeks to reenter the United States after an absence of one year or more and does not possess a reentry permit, he or she should contact a United States consulate abroad for further information regarding possible options for reentering the United States.