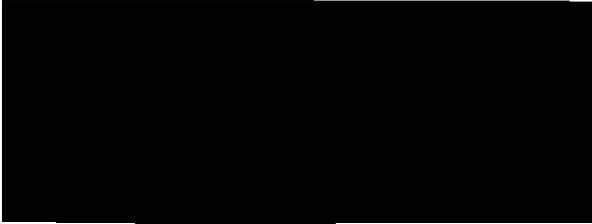


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U.S. Citizenship
and Immigration
Services



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FILE:



Office: ROME, ITALY

Date:

FEB 24 2009

IN RE: Applicant:



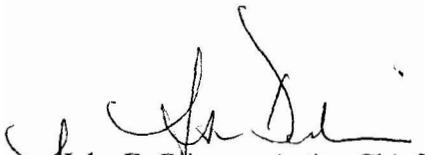
APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Rome, Italy, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Uzbekistan, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The director denied the application because the applicant, who was outside of the United States when he filed his application, did not establish that his intention was not to abandon his asylee status and because he had been outside of the United States for more than one year at the time he filed his application.

The regulation at 8 C.F.R. § 223.1(b) states in pertinent part:

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)(ii) states:

Discretionary authority to adjudicate an application from an alien not within the United States. As a matter of discretion, a district director having jurisdiction over a port-of-entry or a preinspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee travel document, provided:

- (A) The alien submits a Form I-131, Application for Travel Document, with the fee required under § 103.7(b)(1) of this chapter;
- (B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;
- (C) The alien did not engage in any activities while outside the United States that would be inconsistent with continued refugee or asylee status; and
- (D) The alien has been outside the United States for less than 1 year since his or her last departure.

The evidence of record indicates that the applicant was granted asylum status in May 1996. The evidence also indicates that the applicant moved to Bulgaria in 2001 and he has been living there until the present time with his girlfriend, who is pregnant, and their two children who were born in Bulgaria. Service records indicate that the applicant was issued a refugee travel document in 2002, 2003, 2004, 2005 and 2006. According to the applicant, who was interviewed by an employee of the U.S. Embassy in Sofia, Bulgaria, the applicant used the U.S. address of a friend on his Application for Travel Document (Form I-131) each time he applied for a new refugee travel document. The record contains two of the applicant's expired refugee travel

documents (one issued in 1996; one issued in 2005). The 2005 Refugee Travel Document does not show that the applicant made any trips to the United States during the document's validity.

When denying the application, the director noted that the evidence of record failed to establish that the applicant did not intend to abandon his asylee status. The director also noted that the application could not be approved because the applicant had applied for the document after being out of the United States for more than one year.

On appeal, the applicant states that he never intended to abandon his asylee status but that, because of his girlfriend's pregnancy and their two small children, he could not leave them alone in Bulgaria and return to the United States. The applicant claims further that he does not have any valid identity documents because they were taken by the Bulgarian Ministry of Internal Affairs.

The AAO affirms the director's decision to deny the application. The regulation at 8 C.F.R. § 223.2(b)(2)(ii) states that a director has discretionary authority to approve an application for a refugee travel document from an individual who is not in the United States if the applicant can establish that he or she: (1) has been outside of the United States for less than one year since his or her last departure; (2) has not engaged in any activities while outside of the United States that would be inconsistent with continued refugee or asylee status; (3) did not intend to abandon his or her refugee or asylee status at the time of departure from the United States; and (4) has submitted an Application for Travel Document (Form I-131) with the required fee. The applicant has admitted, and does not dispute on appeal, that he has been residing in Bulgaria since 2001. At the time he filed his Form I-131 in February 2008, more than one year had elapsed since his last departure from the United States and he is, therefore, ineligible for a refugee travel document pursuant to 8 C.F.R. § 223.2(b)(2)(ii). As the applicant is ineligible for the document on this ground alone, the AAO shall not discuss whether the applicant did or did not intend to abandon his asylee status.

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.