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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUN 06 2005



IN RE: Applicant:



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.

A handwritten signature in cursive script, appearing to read "Robert P. Wichmann".

Robert P. Wichmann, 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 the Iran, 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 resident status at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated February 16, 2005.

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 travel 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 she received an approval notice regarding a Petition for Alien Relative (Form I-130) in January 2004, and that she has submitted an Application to Register Permanent Residence or Adjust Status (Form I-485). The applicant asks if the approval of her Form I-130 is enough to grant her a reentry permit.

An approval of a Form I-130 does not provide a basis for the issuance of a reentry permit. As noted above a person must hold valid lawful permanent or conditional resident status at the time the application was filed in order to be eligible to file a Form I-131. A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant has a pending Form I-485 and therefore she 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.

The AAO notes that the applicant was admitted into the United States on August 11, 2002, as a spouse of a U.S. citizen in possession of a K-3 nonimmigrant visa and she 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.