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U.S. Citizenship
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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

(LIN-03-180-52684 relates)

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.

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 Laos, 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 23, 2006.

The applicant completed Part 2, box a, on his 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.

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.

On appeal, the applicant states that he has lived and worked in the United States for 26 years. In addition, the applicant states that he supports his two children and loves the United States. Additionally, on the Notice of Appeal to the AAO (Form I-290B) the applicant checked the block that says that he will be sending a brief and/or evidence to the AAO within 30 days. The appeal was filed on November 16, 2006, and to this date, over four months later, no additional documentation has been provided to the AAO. Therefore, the AAO will adjudicate the appeal based on the documentation in the record of proceeding.

The record of proceeding reflects that the applicant was admitted into the United States as a lawful permanent resident on January 21, 1980. The electronic database of Citizenship and Immigration Services reveals that a final removal order against the applicant was issued on September 15, 2004, pursuant to section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1227(a)(2)(A)(iii), for having been convicted of an aggravated felony at any time after admission. The record further reflects that the applicant is presently under an order of supervision and, therefore, at the time he filed the Form I-131 he was not a lawful permanent or conditional resident of the United States.

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.