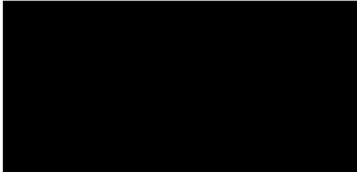


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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



FILE:



Office: NEBRASKA SERVICE CENTER

Date: OCT 30 2007

(LIN-06-276-51413 relates)

IN RE:



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 black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the 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 Guinea-Bissau, 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 Director denied the application because the record failed to establish that the applicant is a lawful permanent resident or conditional resident of the United States as stated on his application. *See Director's Decision*, dated February 14, 2007.

On appeal, the applicant states that he filed an Application to Register Permanent Residence or Adjust Status (Form I-485) on May 15, 2005 and that he attended an interview with his spouse on October 14, 2005. He states that he has been waiting for 18 months for a decision on his Form I-485 and he has an urgent necessity to travel to his home country of Guinea-Bissau. *Form I-290B*, dated, March 14, 2007.

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

(a) Reentry permit.

A reentry permit allows a permanent resident to apply for admission to the United States upon return from abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa.

The regulation at 8 C.F.R. § 223.2 states in pertinent part:

(b) Eligibility.

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 the application and is a lawful permanent resident or conditional resident.

The record indicates that the applicant is in the United States, however a search of the electronic records of Citizenship and Immigration Services (CIS), as well as the documents submitted by the applicant do not establish that he is a lawful permanent resident or conditional resident.

With his application, the applicant submits a photocopy of his Employment Authorization Card and a photocopy of the Interview Notice for his Form I-485 application. These documents do not establish that the applicant is a lawful permanent resident, or a conditional resident. Accordingly, the applicant has not demonstrated that he is eligible for a reentry permit under the regulation at 8 C.F.R. § 223.2(b).

The AAO notes that an applicant with a pending Form I-485 application may apply for an advance parole document for temporary foreign travel. However, in the current application, the applicant states that he is a conditional resident applying for a reentry permit and does not request advanced parole.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act 8 U.S.C. § 1361. The petitioner has not met this burden. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.