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U.S. Citizenship
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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JAN 11 2008

IN RE:



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

ON BEHALF OF APPLICANT:



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 Yemen, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The Director denied the application after determining that it was filed after the applicant had departed the United States. *See Director's Decision* dated March 16, 2007.

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

(b) 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)(i) states:

General. 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 either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The record reflects that the applicant was granted political asylum in 2002. On July 6, 2006, the applicant filed an Application for Travel Document (Form I-131) with Citizenship and Immigration Services (CIS). The record indicates that the applicant departed the United States in October 2005. Therefore, the Form I-131 was filed after the applicant departed the United States.

On appeal, the applicant does not dispute that he filed the Form I-131 while in Jordan. The applicant states that he tried to obtain a re-entry permit from the U.S. Consulate in Jordan, but was directed to file a Form I-131 with Citizenship and Immigration Services. *Form I-290B*, undated.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) requires that the Form I-131 be filed by a person who is in the United States at the time of application. No exception to the physical presence requirement is provided. Since the application was not filed until after the applicant had departed the United States, it may not be approved.

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