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**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**

[REDACTED]

I

Date: **OCT 07 2011**

Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for a Reentry Permit Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203

ON BEHALF OF APPLICANT:

[REDACTED]

**INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for a reentry permit (Form I-131) was denied by the Director, Nebraska Service Center, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reopen or reconsider. The motion to reopen will be granted and the previous decision to dismiss the appeal will be affirmed. The application will remain denied.

The applicant is a native and citizen of Pakistan who seeks to obtain a reentry permit under section 223 of the Immigration and Nationality Act (*the Act*), 8 U.S.C. § 1203. The director denied the application after determining that it was filed after the applicant had departed from the United States. The director also denied the application due to abandonment because the applicant failed to appear for biometrics processing.<sup>1</sup> In our prior decision, we dismissed the appeal, noting that the application was filed after the applicant had departed from the United States, which the regulation at 8 C.F.R. § 223.2(b)(1) does not permit.

On motion, counsel asserts that U.S. Citizenship and Immigration Services (USCIS) should reopen the first application for a reentry permit that the applicant filed in 2007 because the applicant's reentry permit was destroyed through no fault of her own. Counsel also states that USCIS should not have instructed the applicant to file a new Form I-131, which is the subject of this motion, knowing that the applicant was outside of the United States and therefore ineligible to receive it. On motion, the applicant submits her own affidavit as well an affidavit from her aunt. The applicant states that she was not at fault for her reentry permit being undeliverable.

Counsel's arguments regarding the obligation of USCIS to reopen the applicant's 2007 Form I-131 have no merit in this proceeding. As stated in our prior decision, each application filing is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, USCIS is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). The application before us on motion is the one that the applicant filed on May 28, 2010. The AAO does not have jurisdiction to reopen the 2007 application that resulted in the destruction of the applicant's reentry permit. *See* 8 C.F.R. § 103.5(a)(1)(ii). The applicant does not dispute that she filed the instant Form I-131 while she was in Pakistan. Thus, as the applicant was not present in the United States at the time the instant application was filed with USCIS, the application may not be approved. 8 C.F.R. § 223.2(b)(1). Accordingly, the denial of the Form I-131 was the proper result.

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 AAO's prior decision to dismiss the appeal, dated March 1, 2011, will be affirmed.

**ORDER:** The AAO's prior decision, dated March 1, 2011, is affirmed. The application remains denied.

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<sup>1</sup> As noted in our prior decision, the denial of an application due to abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15).