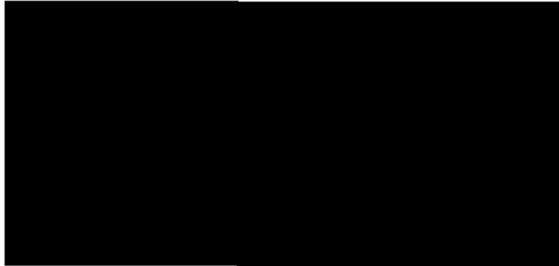


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**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



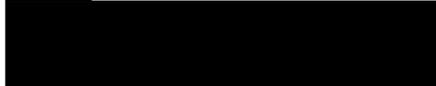
I,

Date: **FEB 02 2012**

Office: NEBRASKA SERVICE CENTER

FILE: 

IN RE:

Applicant: 

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:

SELF-REPRESENTED

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 Director of the Nebraska Service Center (“the director”) denied the application for a reentry permit (Form I-131), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The application will remain denied.

The applicant is a native and citizen of Japan 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.

Section 223 of the Act, 8 U.S.C. § 1203, 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(b) states, in pertinent part, that an application for a reentry permit may be approved if it is “*filed by a person who is in the United States at the time of application.*” (Emphasis added).

The applicant was admitted into the United States as a lawful permanent resident on August 11, 1997. On October 18, 2010, the applicant filed an Application for Travel Document (Form I-131) with U.S. Citizenship and Immigration Services (USCIS). The applicant indicated her date of departure from the United States at Part 3.1 as December 30, 2010; however, she mailed the application from Japan on or about October 13, 2010.

The director denied the Form I-131 because the applicant was not present in the United States when she filed her application. On appeal, the applicant does not dispute that she filed the Form I-131 while outside of the United States. She explains that her mother became very ill and she had to go back to Japan immediately.

To be eligible for a reentry period, an applicant must be physically present in the United States at the time the Form I-131 is filed with USCIS. 8 C.F.R. § 223.2(b). Here, it is undisputed that the applicant filed the Form I-131 while she was physically present in Japan. Accordingly, the application may not be approved as a matter of law.<sup>1</sup>

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 is dismissed.

**ORDER:** The appeal is dismissed. The application remains denied.

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<sup>1</sup> If a lawful permanent resident seeks to reenter the United States after an absence of one year or more and does not possess a reentry permit, he or she should contact a United States consulate abroad for further information regarding possible options for reentering the United States.