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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:

JUL 24 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

applicant entered the United States on April 13, 2010 and on January 15, 2011. The applicant does not submit evidence of when she departed the United States after her April 13, 2010 entry, which necessitated her January 15, 2011 entry into the United States. The record does not contain evidence showing when the applicant departed the United States after her April 13, 2010 entry. Therefore, the applicant has failed to establish that she was present in the United States at the time she filed her Form I-131 application on December 1, 2010.

To be eligible for a reentry permit, 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). The Act provides no exception regarding the physical presence requirement at the time of filing a Form I-131. Since the application was not filed until after the applicant had departed the United States, the application may not be approved as a matter of law.¹

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.

¹ 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.