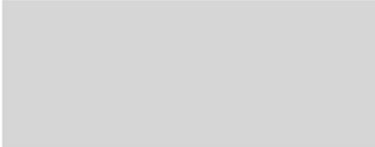




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 12 2015**

FILE #: [REDACTED]  
[REDACTED] consolidated therein)  
APPLICATION RECEIPT #: [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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg for".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Nebraska Service Center (the Director) denied the Form I-131, Application for Travel Document, 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 Canada 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 the applicant filed it after she 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 applicant requesting a reentry permit “must file such application while in the United States and in status as a lawful permanent resident or conditional permanent resident.”

The applicant was admitted into the United States as a lawful permanent resident on April 3, 1997. On November 25, 2013, the applicant filed Form I-131 with U.S. Citizenship and Immigration Services (USCIS). The applicant did not indicate her date of departure from the United States at Part 3.1 of Form I-131; however, on October 8, 2014, in her response to the Director’s Notice of Intent to Deny, she states that she was in Canada caring for her mother when she filed the Form I-131.

The applicant has submitted emails, sent before she filed Form I-131, between her spouse and the USCIS Ombudsman’s office, in which her spouse requests that the Form I-131 be filed from Canada, using the applicant’s biometrics from 2011. The applicant lists her spouse’s interactions with various USCIS offices and also indicates that USCIS advised her to file the Form I-131 from Canada. The record does not include supporting documentary evidence showing that USCIS advised the applicant that it was permissible to file the Form I-131 while in Canada. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm’r 1972)). In addition to the regulation’s reference to the requirement that the application be filed from the United States, the instructions for Form I-131 state at page 2 that an applicant “must be physically present in the United States when [filing] the Reentry Permit application[.]” *Form I-131 Instructions*, <http://www.uscis.gov/sites/default/files/files/form/i-131instr.pdf> (last visited August 6, 2015).

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.

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 outside of the United States. Accordingly, the application may not be approved as a matter of law.<sup>1</sup>

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**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.