



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 17401869

Date: MAY 28, 2021

Appeal of Nebraska Service Center Decision

Form I-131, Application for Travel Document

The Applicant is a lawful permanent resident of the United States who seeks a reentry permit under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. An applicant for a reentry permit must file the application while in the United States. 8 C.F.R. § 223.2(b)(1).

The Director of the Nebraska Service Center denied the Form I-131, concluding that the Applicant applied for the reentry permit after departing from the United States. Specifically, the Director determined that the Applicant traveled abroad on March 22, 2020, and was not physically present in the United States when he filed his application on March 23, 2020. The Director cited to the regulation at 8 C.F.R. § 103.2(a)(7)(i). The Applicant filed a timely appeal.

On appeal, the Applicant claims that he was present in the United States when he mailed the Form I-131, but confirms that he was not physically present in the United States when he filed the Form I-131 because he had to travel outside the United States to care for his father. The Applicant asserts that he has had to remain outside the United States due to subsequent travel restrictions relating to the COVID-19 pandemic. A benefit request, such as an application for a reentry permit, is not considered filed until it is accepted for processing by USCIS. 8 C.F.R. § 103.2(a)(7). A benefit request may be accepted for processing when it is properly completed and signed, and submitted with the proper fee. If not, USCIS rejects the benefit request and no filing date is retained. *Id.*

Although we acknowledge the Applicant's personal circumstances, he was outside the United States when the Form I-131 was actually filed on March 23, 2020, and neither the Act nor the regulations provide for an exception to the pre-departure filing requirement in 8 C.F.R. § 223.2(b)(1). Moreover, USCIS policy provides that "[w]hether to favorably exercise discretion to approve or deny an application is typically assessed after an officer has determined that the requestor meets all applicable threshold eligibility requirements." 1 *USCIS Policy Manual* E.8(B)(2), <https://www.uscis.gov/policymanual>. In this case, the Applicant did not first meet the threshold

requirement that he must be within the United States when filing the Form I-131. Accordingly, the Applicant is ineligible for a reentry permit.<sup>1</sup>

**ORDER:** The appeal is dismissed.

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<sup>1</sup>Although he cannot obtain a reentry permit through this application, the Applicant is not precluded from filing a new application when he is physically present in the United States in lawful permanent resident status.