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U.S. Citizenship  
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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

**JUL 31 2006**

(LIN-06-020-51852 relates)

IN RE: Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Acting Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Korea, who seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The Acting Director concluded that the applicant did not hold valid lawful permanent or conditional residence status at the time the application was filed and denied the application accordingly. *See Acting Director's Decision* dated February 15, 2006.

The applicant completed Part 2, box a, on her Application for Travel Document (Form I-131) that states:

I am a permanent resident or conditional resident of the United States and I am applying for a Reentry Permit.

Section 223 of the Act 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 states in pertinent part:

(b) Eligibility.

(1) Reentry permit. Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application and is a lawful permanent resident or conditional permanent resident.

On the Notice of Appeal to the AAO (Form I-290B), the applicant states that she paid fees for an Application to Register Permanent Residence or Adjust Status (Form I-485), and for an Application for Travel Document (Form I-131). The applicant further states that she does not understand why she needs to pay \$385.00 again. The applicant submits a copy of a Notice of Action (Form I-797C) showing that a Form I-485 was filed on October 25, 2005.

The \$385.00 the applicant refers to is the fee for the appeal filed after her Form I-131 was denied, and it is not a duplicate fee. A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant's Form I-485 is pending. The mere filing of Form I-485 does not confer lawful permanent or conditional residence status to an applicant. The applicant is not a lawful permanent or conditional resident of the United States. Absent such evidence, the application may not be approved.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

As noted above, the applicant has a pending Form I-485 and she may be eligible for advance parole. Therefore, the decision is without prejudice to the filing of a new Form I-131 for advance parole if the applicant completes the appropriate box on the application.

**ORDER:** The appeal is dismissed.