

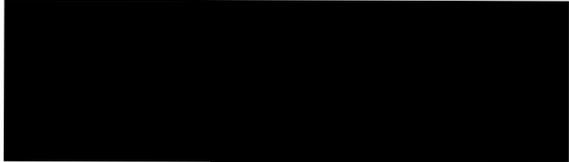


U.S. Citizenship
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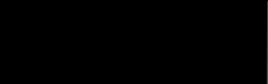
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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **MAR 28 2006**

(LIN-05-261-53361 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.

Robert P. Wiemann, Director
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 October 21, 2005.

The applicant completed Part 2, box a, on his 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 appeal, the applicant states that he feels that he is a conditional permanent resident since his spouse filed a Petition for Alien Relative (Form I-130) on his behalf. In addition, the applicant states that he needs to travel to Korea to take care of his business and his terminally ill mother-in-law. Finally, the applicant states that he needs to travel to Korea before the processing of his Application to Register Permanent Residence or Adjust Status (Form I-485) is finished. The applicant submits copies of a Notice of Action (Form I-797C) showing that a Form I-130 and a Form I-485 were filed on August 25, 2005.

The mere filing of Forms I-130 and 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 he 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.