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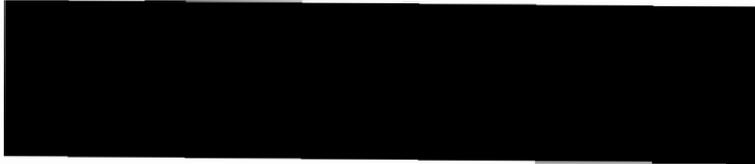
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: MAY 19, 2006
(LIN-05-173-50783 relates)

IN RE: Applicant: [REDACTED]

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 black ink, 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 September 27, 2005.

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 she applied for an advance parole document and not a reentry permit. In addition, she states that she is married to a U.S. citizen and has filed an application for permanent residence status. Furthermore, the applicant states that she is eligible for an advance parole document since she has an adjustment of status application pending and needs to travel abroad for bona fide business reasons.

The record of proceedings clearly reflects that on her Application for Travel Document (Form I-131), filed on May 16, 2005, the applicant completed Part 2, box a, that states:

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

In addition, in her correspondence she refers to reentry permit in several instances, rather than to advance parole.

A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant has a pending Application to Register Permanent Residence or Adjust Status (Form I-485) and, therefore, she is not a lawful permanent or conditional resident of the United States. Absent such evidence, the application may not be approved.

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.

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

ORDER: The appeal is dismissed.