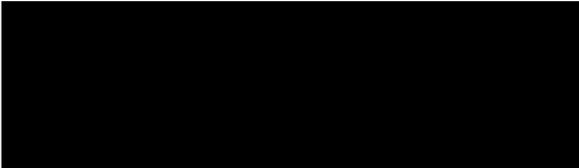


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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-06-070-50639 relates)

Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

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, 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 Ghana, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. 223.1(b). The Acting Director concluded that the applicant did not hold valid refugee status under section 207 of the Immigration and Nationality Act (the Act), or valid asylum status under section 208 of the Act, or permanent resident status as a direct result of his refugee or asylee status at the time the application was filed, and denied the application accordingly. *See Acting Director's Decision* dated April 28, 2006.

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

I now hold U.S. refugee or asylee status and I am applying for a Refugee Travel Document.

The regulation at 8 C.F.R. § 223.1 states in pertinent part:

(b) Refugee travel document. A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in § 223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) states:

General. 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 either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

On appeal, the applicant states that the Board of Immigration Appeals (BIA) granted him asylum status based on his claim pursuant to the Convention Against Torture (CAT). In addition, the applicant states that his Application to Register Permanent Residence or Adjust Status (Form I-485) was not denied and a Notice of Action (Form I-797C) he received states "Asylee Adjustment".

The AAO notes that the applicant did not submit a copy of the Form I-797C to which he refers. The record of proceeding reflects that on November 16, 2001, the BIA granted the applicant relief under the CAT.

The regulation at 8 C.F.R. § 208.16(c) states in pertinent part:

4 . . . Protection under the Convention Against Torture will be granted either in the form of withholding of removal or in the form of deferral of removal. . . .

The granting of withholding of removal or deferral of removal does not confer asylum status on an applicant. It merely indicates that the court has determined that it is not in the alien's best interest to be removed at this

time. It is not a permanent status. In the present case, the applicant has failed to establish that he holds valid refugee or asylum status under section 207 or 208 of the Act. 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 eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.