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U.S. Citizenship
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER
(LIN-06-176-50164 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:

[REDACTED]

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

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 Sudan, 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 November 2, 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, counsel states that the applicant is a refugee as the word is defined under section 241(b)(3) of the Act, and his Form I-131 was erroneously denied. Counsel notes that the Board of Immigration Appeals (BIA) affirmed the immigration judge's denial of the applicant's request for asylum but did not affect his grant of withholding removal. Finally, counsel states that as long as the applicant is under a withholding of removal order, his application for travel document should have been granted.

The record of proceeding reflects that on August 6, 2003, an immigration judge denied the applicant's application for asylum and granted his application for withholding of removal. An applicant who is ineligible for asylum, may qualify for withholding of removal if he demonstrates that his "life or freedom would be threatened in that country" on account of one of the protected grounds under the Act pursuant to section 241(b)(3)(A) of the Act. The granting of withholding of removal does not confer asylum status to 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.