

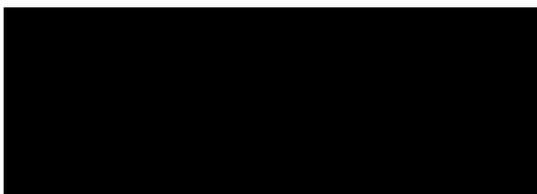
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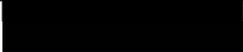
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER
(LIN-07-206-52039 relates)

Date:

FEB 24 2009

IN RE:

Applicant:



APPLICATION:

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

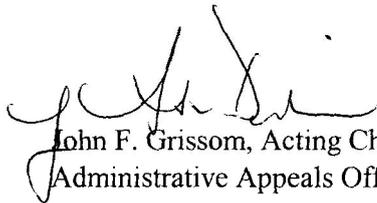
ON BEHALF OF APPLICANT:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the 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 of Cuba and citizen of Spain 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 director denied the application after determining that the application was filed after the applicant had departed from the United States.

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.

The record of proceeding reflects that the applicant was admitted into the United States as a lawful permanent resident on November 1, 2002. On July 12, 2007, the applicant filed an Application for Travel Document (Form I-131) with U.S Citizenship and Immigration Services (USCIS). Attached to the Form I-131 was a statement from the applicant indicating that he had a prolonged stay outside of the United States because he was involved in a traffic accident. He attached documents in the Spanish language allegedly attesting to his medical condition. On March 7, 2008, the director requested that the applicant provide evidence to establish his actual date of departure from the United States. The applicant responded, stating that he left the United States on August 28, 2004. He also submitted numerous medical documents in the Spanish language. Thus, the evidence shows that the Form I-131 was filed after the applicant departed from the United States.

On appeal, the applicant does not dispute that he filed the Form I-131 while outside of the United States. The applicant states that he has been unable to return to the United States due to his involvement in a traffic accident.

The fact remains that the Form I-131 was filed after the applicant departed from the United States. The Act provides no exception regarding the physical presence requirement at the time of filing a Form I-131 to obtain a reentry permit. Since the application was not filed until after the applicant had departed from the United States, the application may not be approved as a matter of law.

If a lawful permanent resident seeks to reenter after an absence of one year or more, and does not possess a reentry permit, he/she should contact a United States consulate abroad for further information regarding possible options for return to the United States. Additionally, should the applicant submit any foreign language documentation to USCIS in the future, the applicant must ensure that such documentation is accompanied by a full English translation which the translator has



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certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).

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.