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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



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Date: **APR 05 2011** Office: NEBRASKA SERVICE CENTER FILE: 
(LIN-10-902-59540 relates)

IN RE: Applicant: 

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

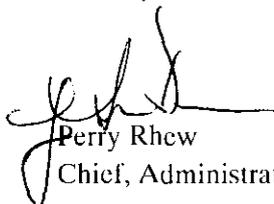
ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Perry Rhew
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 and citizen of India 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 applicant was not a lawful permanent resident or conditional permanent resident of the United States at the time of the application's filing.

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 evidence of record indicates that the applicant filed the instant I-131 application on April 2, 2010. In Part 2, "Application Type," the applicant checked box a., indicating that he held U.S. permanent or conditional resident status and was applying for a reentry permit.

The director denied the I-131 application after determining that the applicant was not a lawful permanent resident or conditional permanent resident of the United States at the time of the application's filing and was thus ineligible for a reentry permit. On appeal, the applicant correctly states that he became a permanent resident on July 27, 2010.

A review of U.S. Citizenship and Immigration Services (USCIS) records confirms the applicant's statement on appeal that he became a lawful conditional resident of the United States on July 27, 2010. The application may not be approved, however, because the applicant must establish eligibility at the time of filing the application. USCIS regulations affirmatively require an applicant to establish eligibility for the benefit he is seeking at the time the application is filed. 8 C.F.R. § 103.2(b)(1). An application may not be approved at a future date after the applicant becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). In this case, the application was filed on April 2, 2010, and the applicant became a lawful conditional resident on July 27, 2010. As the applicant was not a lawful permanent resident or conditional permanent resident of the United States at the time of the application's filing, it is concluded that the application may not be approved. Accordingly, the appeal is dismissed.

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In sum, the director properly denied the I-131 application because the applicant was not a lawful permanent resident or conditional permanent resident of the United States at the time of the application's filing. The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is dismissed.