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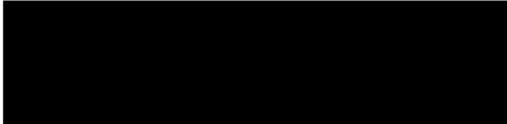
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER

Date: **MAR 01 2011**

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:



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 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 \$630. 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).

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. The director granted a subsequent motion to reopen, and reaffirmed his previous decision to deny the application. The matter 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 director denied the application after determining that the applicant was not a lawful 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.

A review of the record reveals the following facts and procedural history: The applicant was admitted into the United States as a lawful permanent resident on July 30, 1982. On May 15, 2005, the applicant signed a Form I-407, Abandonment of Lawful Permanent Resident Status, at the Port of Entry in Blaine, Washington, and concurrently signed a Form I-877, Record of Sworn Statement in Administrative Proceedings, that the surrender of her U.S. lawful permanent resident status was voluntary. On February 27, 2007, the applicant filed a Form I-131, Application for Travel Document. The director denied the application after determining that the applicant was not a lawful permanent resident of the United States at the time of the application's filing. The director granted a subsequent motion to reopen and reconsider, and reaffirmed his previous decision to deny the application.

On appeal, counsel asserts that the applicant did not voluntarily surrender her U.S. lawful permanent resident status, but did so under duress. In support of his assertion, counsel submits a declaration from the applicant.

While the AAO acknowledges the assertions from counsel and the applicant on appeal that the applicant's surrender of her U.S. lawful permanent residence was not voluntary, the AAO has no authority to review the decision pertaining to the applicant's surrender of her U.S. lawful permanent resident status. Since the application was not filed until after the applicant had surrendered her U.S. lawful permanent resident status, the application may not be approved as a matter of law.

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.