

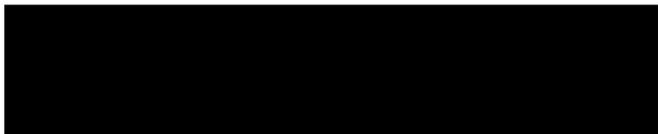
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **MAR 22 2011**

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:

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 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 Guinea, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The director concluded that the applicant did not hold valid refugee status under section 207 of the Immigration and Nationality Act (the Act), valid asylum status under section 208 of the Act, or permanent resident status as a direct result of her refugee or asylee status at the time the application was filed. The director denied the application accordingly. On appeal, the applicant submits a brief statement on the Form I-290B, Notice of Appeal or Motion, and copies of: a Form I-94, Arrival/Departure Record; a social security card; a New York State driver's license; and an Employment Authorization Document.

#### *Applicable Law*

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.

#### *Facts and Procedural History*

On June 9, 2003, the applicant's alleged spouse filed a refugee/asylee relative petition (Form I-730) on her behalf, which was approved on July 29, 2004. On September 30, 2005, the Director, California Service Center, reopened the matter based upon information obtained from the U.S. Consulate in Conakry, which indicated that the applicant had submitted a fraudulent marriage certificate at the time of her consular interview. The applicant was afforded 30 days to rebut the derogatory information, and she failed to respond. The director, therefore, denied the Form I-730 on December 9, 2005.

In December 2005, the applicant submitted an application for refugee travel document (Form I-131) that was approved on January 21, 2006. The applicant filed a second Form I-131 in July 2007 that was approved on June 13, 2008. The applicant filed the instant application for a third refugee travel document on May 15, 2009. In denying the application, the director noted that the applicant was not a refugee or an asylee, and had not been granted adjustment of status as a direct result of refugee or asylee status. The director acknowledged that the applicant had been granted two refugee travel documents in the past and concluded that these documents were issued in error and U.S. Citizenship and Immigration Services (USCIS) was not bound by those erroneous approvals.

On appeal, the applicant states that she was issued two refugee travel documents in the past by USCIS, and she holds refugee status as evidenced by an endorsed Form I-94 as well as an approved Form I-730 that was filed by her spouse on her behalf.

*The Applicant is not Entitled to a Refugee Travel Document*

The applicant notes on appeal that USCIS approved two applications for refugee travel documents in the past. The director's decision indicates that he reviewed the prior approvals of the other applications and acknowledged that they had been approved in error. Neither the director nor the AAO is required to approve an application where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988).

The relevant evidence clearly establishes that the applicant is neither a refugee nor an asylee, and did not adjust her status to that of a lawful permanent resident as a direct result of being a refugee or asylee. As noted earlier, the Form I-730 that was initially approved on the applicant's behalf was subsequently denied after proper notice on December 9, 2005. Similarly, the applicant's adjustment of status application (Form I-485) was denied on October 20, 2009.

We note that the applicant was initially issued a refugee travel document in January 2006 and used that document to reenter the United States after a brief trip abroad, at which time an immigration inspector issued to her a Form I-94 indicating that asylum status was granted indefinitely. USCIS is not bound by an error committed by an immigrant inspector at the time of admission. *Matter of Khan*, 14 I&N Dec. 397 (BIA 1973). Just as USCIS is not bound to approve the instant application based upon the erroneous approvals of two prior refugee travel document applications, the applicant's possession of an erroneously-issued Form I-94 also does not demonstrate eligibility for a refugee travel document.

*Conclusion*

As in all proceedings, the applicant bears the burden of proof. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.