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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**



I<sub>2</sub>

Date: **MAY 02 2011**

Office:



FILE:



IN RE Applicant:



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 Acting Director, [REDACTED] and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of [REDACTED] who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The director denied the application because, although the applicant was paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (the Act) for the purpose of filing an asylum application, the record contains no evidence that he ever filed for asylum, and thus he does not qualify for a refugee travel document. On appeal, the applicant states, in part, that, as a [REDACTED] he was automatically granted refugee/asylee status and, therefore, he is eligible 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.

A review of the record reveals the following facts and procedural history. The applicant arrived in the United States in 1980 during the Mariel [REDACTED] boatlift. On July 23, 1980, the applicant was paroled into the United States until September 27, 1980, pursuant to section 212(d)(5) of the Act, for the purpose of applying for asylum. The record, however, does not find that the applicant ever applied for asylum, and thus he was never granted asylum status.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) states clearly that a refugee travel document may be granted only to an applicant who "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." As the applicant does not fall into one of these categories, his application for a refugee travel document must be denied.



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Accordingly, the director properly denied the Form I-131 because the applicant indicated that he was seeking a refugee travel document and he was unable to establish that he had been granted refugee or asylee status. 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.