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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: **MAY 02 2011** Office: NEBRASKA SERVICE CENTER FILE: 

IN RE: Applicant: 

APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R., § 223.1(b).

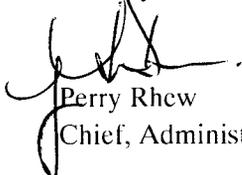
ON BEHALF OF APPLICANT: SELF-REPRESENTED

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 the \$630 fee. 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, 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 China and citizen of Honduras who seeks to obtain a refugee travel document under 8 C.F.R. § 223.1(b). The director denied the application after determining that the applicant had not been granted refugee or asylee status.

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.

The regulation at 8 C.F.R. § 244.15 states in pertinent part:

(a) After the grant of Temporary Protected Status, the alien must remain continuously physically present in the United States under the provisions of section 244(c)(3)(B) of the Act. The grant of Temporary Protected Status shall not constitute permission to travel abroad. Permission to travel may be granted by the director pursuant to the Service's advance parole provisions. There is no appeal from a denial of advance parole.

A review of the record reveals the following facts and procedural history. The applicant entered into the United States on August 10, 1997. The applicant was subsequently granted Temporary Protected Status. The applicant submitted an I-131 application on July 6, 2010, stating that the purpose of her trip was to visit her relatives in Hong Kong, China. In Part 2, "Application Type," the applicant checked box b., indicating that she held U.S. refugee or asylee status and was applying for a refugee travel document.

The director denied the Form I-131 because the applicant failed to establish that she had been granted refugee or asylee status and, therefore, was ineligible for a refugee travel document. On

appeal, the applicant indicates, in part, that she has filed a Form I-821, Application for Temporary Protected Status, and requests a travel document to visit her parents in China.

The record indicates that the applicant re-registered for Temporary Protected Status during the designated re-registration period for Honduran nationals, from May 5 until July 5, 2010, in order to maintain her status through January 5, 2012. The record also contains a Form I-797, Notice of Action, reflecting that the applicant's request for employment authorization was approved and valid from July 27, 2010 to January 5, 2012. While an applicant who has been granted Temporary Protected Status may submit an application for an advance parole document, the applicant in this matter indicated on her Form I-131 that she held U.S. refugee or asylee status and was applying for a refugee travel document. She did not indicate on the Form I-131 that she was seeking an advance parole document. Once U.S. Citizenship and Immigration Services (USCIS) concludes that an alien is not eligible for the specifically requested classification, the agency is not required to consider, *sua sponte*, whether the alien is eligible for an alternate classification. *Brazil Quality Stones, Inc., v. Chertoff*, Slip Copy, 2008 WL 2743927 (9th Cir. July 10, 2008).

Accordingly, the director properly denied the Form I-131 because the applicant indicated that she was seeking a refugee travel document and she was unable to establish that she holds U.S. refugee or asylee status. 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. The application remains denied.