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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

Date: **MAY 12 2014**

Office: ROME, ITALY

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for Refugee Travel Document Pursuant to Section 223.1(b).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron M. Rosenberg".

Ron M. Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director (director), Rome, Italy 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 Iraq, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. § 223.1(b). The director denied the application because the applicant was outside of the United States for more than one year at the time she filed the application.

On appeal, the applicant asserts that she submitted her application less than one year after departing the United States but that the United States Embassy in Iraq and the United States Citizenship and Immigration Services (USCIS) Rome District delayed processing and/or misplaced her application, that she was asked to submit another application by the director, Rome District and that the current application was filed more than one year after her departing the United States. The applicant contends that the untimeliness of her application was due to errors by the United States Embassy in Iraq and the director, Rome District. The applicant requests that her application be processed on its merit and that she be issued a Refugee Travel document to enable her return to the United States.

The regulation at 8 C.F.R. § 223.1(b) states in pertinent part:

*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)(ii) states:

*Discretionary authority to adjudicate an application from an alien not within the United States.* As a matter of discretion, a district director having jurisdiction over a port-of-entry or a preinspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee travel document, provided:

- (A) The alien submits a Form I-131, Application for Travel Document, with the fee required under § 103.7(b)(1) of this chapter;
- (B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;
- (C) The alien did not engage in any activities while outside the United States that would be inconsistent with continued refugee or asylee status; and

(D) The alien has been outside the United States for less than 1 year since his or her last departure.

The record of proceeding reflects that the applicant was admitted to the United States as a refugee on October 4, 2011. The applicant departed the United States on April 19, 2012 and has remained outside the United States since that time. On July 14, 2013, the applicant submitted the current application for a refugee travel document with the Department of State in Baghdad, Iraq, which was received by the USCIS office in Rome, Italy, for processing on September 24, 2013. On October 29, 2013, the director denied the application. In the denial letter, the director noted that the applicant had filed the application more than one year after departing the United States and is not eligible for a refugee travel document.

On appeal, the applicant does not dispute the fact that she filed her application more than one year after departing the United States. However, the applicant asserts that the delay in filing the application was due to errors by the Department of State in Baghdad, Iraq and the director in Rome, Italy.

The record of proceedings shows the following procedural history: The applicant departed the United States on April 19, 2012. On May 2, 2012, the applicant submitted a Form I-131 under [REDACTED] indicating that she was residing in the United States at the time. The application was rejected for incorrect fees. On June 19, 2012, the applicant submitted another Form I-131 under [REDACTED]. The application was approved and the notice of approval was mailed to the applicant at her listed address of record – [REDACTED] Woodbridge, Virginia. The record does not reflect that the approval notice was returned to USCIS as undeliverable. On April 10, 2013, the applicant submitted another Form I-130 under [REDACTED]. This application was denied on September 14, 2013 because the applicant failed to report to have her fingerprints and other biometrics captured. On July 14, 2013, the applicant submitted the current Form I-131 with the Department of State, Baghdad, Iraq. It is to be noted that the applicant submitted the prior three applications for a refugee travel document indicating that she was residing in the United States, although the record shows that the applicant was already outside the United States during those periods.

As indicated above, a district director having jurisdiction over a port-of-entry or a preinspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee travel document.

In this case, the applicant did not obtain a Refugee Travel Document prior to departing the United States on April 19, 2012. The director, Rome District with jurisdiction over Baghdad received the applicant's Form I-131, Refugee Travel Document on September 24, 2013, more than one year after the applicant departed the United States. Accordingly, the applicant has failed to establish that she

filed for a refugee travel document within one year after her departure from the United States as required by regulation at 8 C.F.R. § 223.2(b)(2)(ii).

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 is dismissed.

**ORDER:** The appeal is dismissed.