

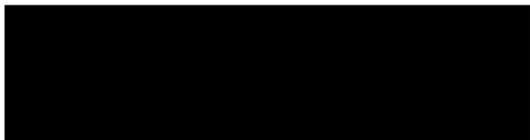


U.S. Department of Justice

Immigration and Naturalization Service



OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted]

Office: NEBRASKA SERVICE CENTER Date:

APR 10 2000

IN RE: Applicant:



White Copy

Petition: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. 1203

IN BEHALF OF APPLICANT: SELF-REPRESENTED

Identifying codes should be
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of India, who seeks to obtain a travel document under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1203. The director denied the application for a reentry permit for failure to provide verifiable evidence of his identity and status. The application was filed with the Service on November 18, 1996.

On appeal, the applicant states that his application was denied because he failed to submit his original passport. The applicant further states "I am ready and willing to produce my original passports, in person, for inspection by the Immigration and Naturalization Service (the INS)."

In pertinent part, section 223 of the Act provides 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 statute also requires that the application be made in good faith and that the applicant's proposed departure would not be contrary to the interests of the United States. A reentry permit allows a permanent resident to apply for admission to the United States upon his or her return from a trip abroad during a period of the permit's validity without the necessity of obtaining a returning resident visa.

With certain exceptions¹, regulations at 8 C.F.R. 223.2(b) allow for the approval of a reentry permit if the application (Form I-131) is filed by a lawful permanent resident or conditional permanent resident. The applicant must also be in the United States at the time of his or her application. Id.

The instant application was filed with the Service on November 18, 1996, indicating that the applicant was a lawful permanent resident of the United States. However, the evidence provided by the applicant verifying his identity and status is inconclusive. The applicant was requested to submit his original passport for the purpose of verifying his identity and status. The applicant was instructed to submit all the evidence at the same time and was

¹See 8 C.F.R. 223.2(c) providing ineligibility where (1) a prior reentry permit is still valid, (2) certain extended absences have been taken by the applicant, or (3) the applicant is entitled to nonimmigrant diplomatic or treaty status and has not submitted the applicable waiver and/or tax exemption form. A review of the record reveals that none of these exceptions to the approval of a reentry permit are present in the matter at hand.



informed that partial submission of the evidence would constitute a request for a decision based on the record.

In response, the applicant's son provided the Service with photocopies of the applicant's passport, not the originals as requested. The Service sent a second request for additional evidence regarding identity and status. In response, the applicant submits a passenger itinerary, boarding pass and photocopies of his passport.

This application was filed with the Service on November 18, 1996. Additionally, the record shows that on November 18, 1996, the date this application was filed with the Service, the applicant was in possession of a reentry permit valid to December 29, 1996. 8 C.F.R. 223.2(c)(1) provides that an application for a reentry permit or refugee travel document shall be denied if the applicant was previously issued a reentry permit or refugee travel document which is still valid, unless it was returned to the Service or it is demonstrated that it was lost. For these reasons the application may not be approved.

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 met that burden.

ORDER: The appeal is dismissed.