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

[redacted]

File: [redacted] Office: Nebraska Service Center Date: JUN 13 2001

IN RE: Applicant: [redacted]

Application: Application for Refugee Travel Document Pursuant to 8 C.F.R. 223.2(b)(2)

Public Copy

IN BEHALF OF PETITIONER: Self-represented

Identification data deleted to 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

Mary L. Rosenberg

for Robert P. Wiemann, Acting 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 seeks to obtain advance parole under section 904 of the Haitian Immigration Fairness Act. The director denied the application for advanced parole after determining that the applicant does not have either valid refugee status under Section 207 of the Act, or asylee status under Section 208 of the Act, or is a permanent resident and received such status as a direct result of his asylee or refugee status.

On appeal, the applicant states "I believe that I am qualified for advance parole under section 902 of the Haitian Immigration Fairness Act."

The regulations at 8 C.F.R. 223.2(b)(2) state that an application for a refugee travel document 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. 208.8(a) indicates that an applicant for asylum who intends to depart the U.S.A. temporarily must first obtain advance parole.

On Form I-131 Application for Travel Document, the applicant did not seek advance parole. Rather, the applicant indicated "I now hold U.S. refugee or asylee status and I am applying for a Refugee travel Document." The record shows that the applicant was not an asylee or refugee at the time he filed this application.

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.