U.S. Department of Justice

Immigration and Naturalization Service

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

[redacted]

File: LIN 02 147 51736 Office: Nebraska Service Center Date: FEB 13 2003

IN RE: Applicant: [redacted]

Application: Application for Reentry Permit Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203

IN BEHALF OF PETITIONER:

[redacted]

identifying 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 that 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 that 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for a travel document was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO)on appeal. The appeal will be sustained.

The applicant seeks to obtain a travel document under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The director correctly denied the application for a reentry permit after determining that the applicant was in possession of a valid refugee travel document at the time of the filing of the application.

On appeal, counsel states that the applicant relinquished her refugee travel document to the Service prior to her receiving the Service's denial of her application for a re-entry permit. Counsel argues that without a travel document from the Service, the applicant is now unable to travel abroad.

Regulations at 8 C.F.R. § 223.2(b)(1) state, in pertinent part, that an application for a reentry permit may be approved if filed by a person who is in the United States at the time of application and is a lawful permanent resident or conditional resident.

Regulations at 8 C.F.R. § 223.2(c)(1) state 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.

As it has been demonstrated on appeal that the applicant is no longer in possession of her previously issued refugee travel document, the application for a reentry permit may 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 met that burden.

ORDER: The appeal is sustained.