



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

Id



File:



Office: Nebraska Service Center

Date:

FEB 12 2001

IN RE:

Applicant:



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

IN BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

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

identification data deleted to
prevent clearly unwarranted
invasion of personal privacy

Robert P. Weimann, 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 is a native and citizen of India, who seeks to obtain a travel document under section 223 of the Immigration and Nationality Act (Act), 8 U.S.C. 1203. The director denied the application for a reentry permit after determining that the applicant had filed the application after having departed the United States.

On appeal, the applicant states: "at present I am a student doing my medicine in India and due to exams and other university requirements I am not able to get back to the U.S. So please grant me a re-entry permit."

The regulation at 8 C.F.R. 223.2(b)(1) states that an application for a travel document may be approved if filed by a person who is in the United States at the time of application.

The Application for Travel Document (Form I-131) was filed on August 27, 1999. Form I-131 reflects the applicant's intended date of departure as July 26, 1999. The record also contains a copy of the applicant's passport page 9 which shows her date of arrival in Bombay as July 28, 1999. Therefore, the applicant has not established that she was in the United States, as required, at the time the application was filed with the Service.

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.