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U.S. Citizenship  
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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER  
(LIN-05-231-50445 relates)

Date: JUL 20 2006

IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Acting Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of China, who seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The Acting Director denied the application after determining that the application was filed after the applicant had departed the United States. See *Acting Director's Decision* dated November 30, 2005.

Section 223 of the Act provides, in pertinent part, 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 regulation at 8 C.F.R. § 223.2 states in pertinent part:

(b) Eligibility.

(1) Reentry permit. Except as otherwise provided in this section, an application 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 permanent resident.

On appeal, the applicant does not dispute the fact that her application for a reentry permit was filed while she was residing in Taiwan. The applicant states that she submitted all the documentation requested by the Service Center along with the required fees. In addition, the applicant states that she must remain in Taiwan for medical reasons but does not want to lose her permanent resident status because her children are in the United States.

The record of proceeding reveals that the applicant is a lawful permanent resident of the United States. On August 1, 2005, the applicant filed an Application for Travel Document (Form I-131) with Citizenship and Immigration Services (CIS) while residing in Taiwan. On August 31, 2005, the Acting Director requested that the applicant provide evidence to establish her actual date of departure from the United States. The applicant responded and the evidence indicates that the applicant departed the United States on March 4, 2005, and was admitted into Taiwan on March 5, 2005. Therefore, the Form I-131 was filed after the applicant departed the United States. The Act provides no exception regarding the physical presence in the United States at the time of filing a Form I-131. Since the application was not filed until after the applicant had departed the United States, the application may not be approved as a matter of law.

If a lawful permanent resident seeks to reenter the United States and does not possess a reentry permit, he/she should contact a United States consulate abroad for further information regarding his/her possible options for return to the United States.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.