



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28208996

Date: OCT. 10, 2023

Appeal of Nebraska Service Center Decision

Form I-131, Application for Travel Document

The Applicant, a native and citizen of South Korea, seeks a reentry permit. *See* Immigration and Nationality Act (the Act) section 223, 8 U.S.C. § 1203. A reentry permit, obtained prior to departing on temporary travel abroad, allows a lawful permanent resident or conditional resident to apply for admission to the United States upon return, and if that absence lasts more than one year, without the necessity of obtaining a returning resident visa.

The Director of the Nebraska Service Center denied the application, concluding that the record did not establish that the Applicant was physically present in the United States when he applied for the reentry permit. Specifically, the Director determined that the Applicant traveled abroad on October 20, 2021, and returned to the United States on February 27, 2002; therefore, the Applicant was not physically present in the United States when he filed his Form I-131, Application for Travel Document (Form I-131), on October 25, 2021. The Director cited to the regulation at 8 C.F.R. § 103.2(a)(7)(i). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

On appeal, the Applicant asserts that he mailed his Form I-131 on October 9, 2021, but sent it to the wrong address and had left the United States before he learned that he needed to resubmit it. The Applicant asks for reconsideration of the denial, noting that he runs a small business in the United States, has paid U.S. taxes for the prior 10 years, and has two daughters who work in public service jobs.

Although we acknowledge the Applicant's initial attempt to file the Form I-131 while he was still within the United States, he was outside the United States when the application was filed on October 20, 2021, and neither the Act nor the regulations provide for an exception to the pre-departure

filing requirement in 8 C.F.R. § 223.2(b)(1). Accordingly, the Applicant is ineligible for a reentry permit because he has not shown that he filed his application while in the United States.¹

ORDER: The appeal is dismissed.

¹ Although he cannot obtain a reentry permit through this application, the Applicant is not precluded from filing a new application when he is physically present in the United States in lawful permanent resident status.