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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]

FEB 21 2003

FILE: [redacted] IN 02 110 55476) OFFICE: NEBRASKA SERVICE CENTER Date:

IN RE: Applicant: [redacted]

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

IN BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

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

The applicant, a citizen of Kosovo, seeks to obtain a refugee travel document under 8 C.F.R. § 223.2(b)(2)(ii). The district director denied the application for a refugee travel document determining that the applicant departed the United States without first obtaining a travel document.

On appeal, the applicants's brother's legal guardian states, in pertinent part, that:

> I am writing at the request and on the behalf of Besim Deliu.
>
> It is clear to me that he violated the guidelines by having his application for Refugee Travel Documents sent in after he left the United States.
>
> His violation of the guidelines may be summed up in one word, ignorance. His previous travel documents had not expired when he left on December 25th to visit his parents in Kosovo. His inability to read English proficiently led him to depend upon his roommate for assistance. His roommate could have sent them in before Besim left, but decided to file Besim's papers at the same time he sent in his. (If necessary this can be documented). However, his expiration and travel dates were much later than Besim's dates. While I understand that ignorance is not an excuse for failing to follow the guidelines, I implore you to consider Besim's circumstances.

Regulations at 8 C.F.R. § 223.2(b) state, in pertinent part, that:

> *Eligibility. (2) Refugee travel document. (i) General.* 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 either holds valid refugee status under section 207 of the Act, valid asylee status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylee or refugee status.

The applicant was not in the United States at the time of application.

The record indicates that the applicant was previously issued a Refugee Travel Document, Form I-571, on December 26, 2000, which was valid until December 26, 2001.

The record also indicates that the applicant departed the United States on December 25, 2001. The applicant did not first secure a new refugee travel document.

Regulations at 8 C.F.R. § 223.3(C) state that a refugee travel document may not be extended.

The applicant was in possession of a refugee travel document prior to his departure from the United States. The applicant's travel document was valid for one year, until December 26, 2001. The applicant departed the United States on December 25, 2001. The applicants Application for Travel Document, Form I-131, was filed on February 13, 2002, more than one month after the applicant's departure from the United States.

The application was filed after the applicant had departed the United States, therefore, the application may not 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 not met that burden.

ORDER: The appeal is dismissed.