



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

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

In Re: 24981367

Date: MAR. 24, 2023

Appeal of Nebraska Service Center Decision

Form I-131, Application for Travel Document

The Applicant, a native and citizen of India, 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 February 12, 2022, and had not returned to the United States; therefore, the Applicant was not physically present in the United States when he filed his Form I-131 on March 25, 2022. 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 does not dispute that he was outside the United States when he filed his Form I-131 on March 25, 2022. He asserts that his granddaughter's wedding in India was moved to an earlier date due to restrictions resulting from the COVID-19 pandemic. Because he had no one else in the United States who would be there to care for him, he claimed that he had to travel with his family to India for the wedding prior to his Form I-131 filing date. The Applicant explains that he now wishes to remain with one of his daughters in India but seeks reconsideration of the Director's denial.

Although we acknowledge the Applicant's personal circumstances, he was outside the United States when the application was filed on March 25, 2022, 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.