



U.S. Citizenship
and Immigration
Services

HR2

[Redacted]

FILE: [Redacted] Office: SAN FRANCISCO, CALIFORNIA Date:

IN RE: Applicant: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under sections 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT:

[Redacted]

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, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The waiver application was denied by the Acting District Director San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that the applicant is a native and citizen of Mexico. She was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation of a material fact. The applicant is the beneficiary of an approved Petition for Alien Relative as the spouse of a U.S. citizen. She now seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), so that she may remain in the United States and reside with her U.S. citizen spouse and child.

The Acting District Director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative. The application was denied accordingly. *See Acting District Director Decision* dated January 29, 2003.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.5a(b).

The record indicates that the Acting District Director issued the decision on January 29, 2003. It is noted that the Acting District Director properly gave notice to the applicant that she had 33 days to file the appeal. The Notice of Appeal to the AAO (Form I-290B) was received by Citizenship and Immigration Services (CIS) on March 12, 2003, 41 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states in pertinent part:

B) Untimely appeal.

(1) Rejection without refund of filing fee. An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The record of proceedings reflects that the appeal of the denial of the Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Act was filed on March 12, 2003, 41 days after the decision was issued. As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.