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U.S. Department of Homeland Security  
20 Mass, Rm. 3000,  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

H2

[Redacted]

FILE:

Office: VIENNA

Date:

AUG 18 2006

IN RE:

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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Officer in Charge, Vienna, Austria, denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

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 of 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 officer in charge issued the decision on July 30, 2004. It is noted that the officer in charge properly gave notice to the applicant that he had 33 days to file the appeal with the office in Vienna, Austria. The applicant incorrectly filed the appeal with the AAO. An appeal is not properly filed until the office that rendered the decision receives it. On September 2, 2004, the AAO returned the appeal to the applicant and informed him that he had incorrectly filed the appeal with this office. The AAO notes that the AAO incorrectly informed the applicant that the appeal needed to be filed with the California Service Center. The AAO notes that the applicant never filed an appeal with the office in Vienna, Austria. However, the California Service Center accepted jurisdiction over the appeal. Citizenship and Immigration Services (CIS) received the appeal on September 20, 2004, or 52 days after the decision was issued. Accordingly, the appeal was untimely filed.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.