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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:



Office: LOS ANGELES, CA

Date: DEC 17 2007

IN RE:



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

ON BEHALF OF APPLICANT:



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, Chief
Administrative Appeals Office

DISCUSSION: The District Director, Los Angeles, California denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly 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 date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The regulation at 8 C.F.R. § 103.3(a)(2)(i) also provides that the affected party must file an appeal on Form I-290B. An affected party is the person or entity with legal standing and may include an attorney or representative if the attorney or representative meets required qualifications and files an executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling them to file the appeal. 8 C.F.R. §§ 103.3(a)(1)(iii)(B) and 292. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(1) states that, if an appeal is filed by a person or entity that is not entitled to file the appeal, the appeal must be rejected as improperly filed. The Form I-290B must be either executed by the applicant or counsel.

The record indicates that the district director issued the decision on December 13, 2004 and properly gave notice to the applicant that he had 33 days to file the appeal with the District Office. The record also indicates that current counsel submitted the Form I-290B to the District Office on January 11, 2005, within the 33-day period. However, the Form I-290B submitted by counsel was not signed by the applicant or counsel. The AAO notes that counsel, in correspondence to this office received on February 14, 2005, includes a copy of a Form I-290B signed by the applicant and dated January 10, 2005. The signed Form I-290B included in counsel's correspondence does not, however, correct the filing deficiency previously noted since an appeal is not properly filed until the office that issued the decision receives it, in this case, the Los Angeles District Office. As the Form I-290B submitted by counsel to the Los Angeles District Office on January 11, 2005 was not signed, the AAO finds that the appeal was not properly filed and must be rejected.

The AAO notes that the record contains a second appeal of the district director's denial of the waiver application, filed by the applicant's former representative. As this appeal was submitted on January 26, 1995 or 44 days after the decision was issued, it fails to comply with the filing requirements at 8 C.F.R. 103.3(a)(2)(i) and will be rejected as untimely filed.

ORDER: The appeals are rejected.