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U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: PHILADELPHIA

Date: DEC 27 2007

IN RE:

Applicant:

[Redacted]

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:

[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, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Philadelphia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In order to properly file the Form I-485, Application to Register Permanent Residence or to Adjust Status, the required application fee must be paid at the time of filing. *See* 8 C.F.R. § 103.2(a)(1). The regulation under 8 C.F.R. § 103.2(a)(7)(ii) provides that if a check or other financial instrument used to pay a filing fee is subsequently returned as not payable, the remitter is notified and requested to pay the filing fee and service charge within 14 calendar days. If the application or petition is pending and the charges are not paid within 14 calendar days, the application or petition shall be rejected as improperly filed. New fees will be required with any new application or petition.

The record reflects that on August 22, 2002 the district director denied the adjustment application submitted by Mr. [REDACTED] on the ground that Mr. [REDACTED] failed to submit the proper filing fee. On the same date, the district director found that because there was no longer a pending adjustment application, the underlying waiver application was moot.

The AAO finds that no evidence submitted on appeal overcomes director's finding that the appeal should be dismissed as the underlying waiver application is moot. The copy of the bank draft and Federal Express envelope submitted by counsel are not sufficient to establish that Citizenship and Immigration Services (CIS) received the proper filing fee for the adjustment application. CIS records do not show that receipt of the filing fee for the adjustment application; it is noted that if CIS received the filing fee, it would have issued a Receipt Notice to the applicant indicating receipt of the filing fee.

Because there is no longer a basis for a waiver application, the director was correct in dismissing the waiver appeal as the underlying waiver application is moot.

ORDER: The appeal is dismissed as the underlying waiver application is moot.