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U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[Redacted]

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date JUL 28 2006

IN RE:

[Redacted]

APPLICATION:

Application for Waiver of the Foreign Residence Requirement under Section 212(e) of the Immigration and Nationality Act; 8 U.S.C. § 1182(e).

ON BEHALF OF APPLICANT;

[Redacted]

PHOTOCOPY

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 Director, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion within 30 days of service of the decision that the motion seeks to reopen. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued the decision on January 26, 2005. The motion was received on November 25, 2005, or 303 days after the decision was issued. Accordingly, the motion was untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that a late motion may be excused where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. The applicant requests that her late motion be accepted due to changes in her circumstances and new evidence based on events that occurred more than 30 days beyond the date of the last decision. *Motion to Reopen*, at 1, dated November 18, 2005. The AAO notes that these are not excuses that would permit a late filing under 8 C.F.R. § 103.5(a)(1)(i).

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

ORDER: The motion is dismissed.