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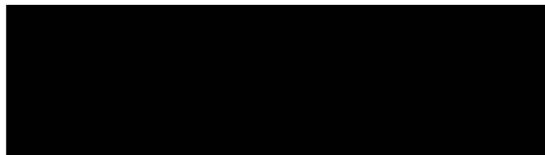
U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

H/3

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FILE:



Office: LIMA, PERU

Date: JAN 04 2007

IN RE:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

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.

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

Robert P. Wiemanh, Chief
Administrative Appeals Office

DISCUSSION: The Acting Officer-in-Charge, Lima, Peru, denied the Form I-601, Application for Waiver of Grounds of Inadmissibility. 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 acting officer-in-charge issued the decision on January 31, 2005. The appeal was received by the appropriate CIS office on May 10, 2005, or 99 days after the decision was issued. Accordingly, the appeal was untimely filed.¹

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the acting officer-in-charge, Lima, Peru. *See* 8 C.F.R. § 103.5(a)(1)(ii). The acting officer-in-charge declined to treat the late appeal as a motion and forwarded the matter to the AAO.

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

ORDER: The appeal is rejected.

¹ The AAO notes that the appeal was initially sent to the Vermont Service Center (VSC) and received on March 5, 2005. However, the VSC is not the proper office, therefore, the appeal was not properly filed.