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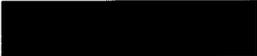
**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: MANILA, PHILIPPINES

Date: AUG 22 2005

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:

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Acting Immigration Attache, Manila, Philippines 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 applicant appears to be represented in the application, however, no Form G-28 is on file nor is there evidence that the representative is authorized under 8 C.F.R. § 292.1.

The record indicates that the acting immigration attache issued the decision on May 4, 2004. It is noted that the acting immigration attache properly gave notice to the applicant that she had 33 days to file the appeal. The appeal was received by CIS on June 18, 2004, or 45 days after the decision was issued. The record includes a letter stating that the Form I-292, Decision, was not received until May 21, 2004 and that the appeal was filed within 30 days of this date. *Letter* [REDACTED] *IV*, at 1, dated June 16, 2004. However, no proof was submitted to verify this allegation. Accordingly, the appeal was untimely filed.

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 immigration attache, Manila, Philippines. *See* 8 C.F.R. § 103.5(a)(1)(ii). The acting immigration attache 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.