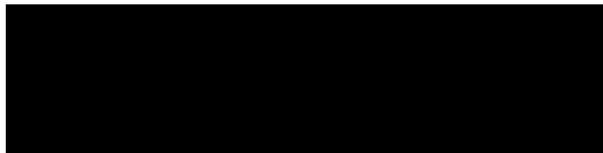




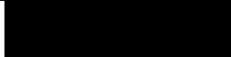
U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

H4



FILE:



Office: ATHENS, GREECE Date:

JUL 19 2007

IN RE:

Applicant:



APPLICATION: Application for Waiver of Ground of Excludability pursuant to section 212(a)(9)(B)(v) of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

PHOTOCOPY

INSTRUCTIONS:

This is the decision 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 application was denied by the Acting Officer in Charge, Athens, Greece and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that the applicant is a native and citizen of Egypt. He is the beneficiary of an approved Form I-129F, Petition for Alien Fiancé(e) and an approved Form I-130, Petition for Alien Relative, filed by his U.S. citizen spouse, but is inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II), 8 U.S.C. § 1182(a)(9)(B)(i)(II), as an alien who was unlawfully present in the United States for more than one year and is seeking admission within ten years of the date of his departure from the United States. On November 5, 2004, the acting officer in charge denied the applicant's Form I-601, Application for Waiver of Ground of Excludability.

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 with the office that issued the denial within 30 days of service of the decision. If the decision is mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

As previously noted, the record indicates that the acting officer in charge issued his decision on November 5, 2004 and notified the applicant that he had 30 days to file an appeal, 33 days if the decision was mailed. Although the decision informed the applicant that the appeal should not be sent directly to the AAO, the applicant, nevertheless submitted the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, to the AAO on December 3, 2004. The AAO instructed the applicant to file the Form I-290B with the Citizenship and Immigration Services (CIS) office in Newark, New Jersey. The CIS office in Newark received the appeal on December 27, 2004.

The AAO notes that it erred in informing the applicant to file the appeal with the Newark office and that the applicant should have been instructed to submit the Form I-290B to the CIS office in Athens. In light of its instructions to the applicant, the AAO will accept December 27, 2004 as the filing date for the appeal. However, in that the applicant submitted the Form I-290B to the Newark office on December 27, 2004, 52 days after the acting officer in charge's decision, the applicant has not met the filing requirements for an appeal.

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

**ORDER:** The appeal is rejected.