

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



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

**PUBLIC COPY**

AA

MAR 22 2007

FILE: [REDACTED] OFFICE: PANAMA CITY, PANAMA DATE:

IN RE: APPLICANT: [REDACTED]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A); Application for Waiver of Grounds of Inadmissibility under section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h)

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. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Officer in Charge, Panama City, Panama. 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 after 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 Officer in Charge issued a decision on September 1, 2005. It is noted that the Officer in Charge properly gave notice to the applicant that he had 33 days to file the appeal. The appeal was received by the American Embassy, Panama City, Panama on October 7, 2005, 36 days after the decision was issued. Accordingly, the appeal was untimely filed.<sup>1</sup>

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. See 8 C.F.R. § 103.5(a)(1)(ii). The 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 therefore be rejected.

**ORDER:** The appeal is rejected.

---

<sup>1</sup> It is noted that on the Form I-290B, Notice of Appeal to the Administrative Appeals Office, counsel requested an additional 90 days to submit a brief and/or evidence to the AAO. This request does not effect, or change the regulatory 30 (33) day time period allowed for filing the Form I-290B