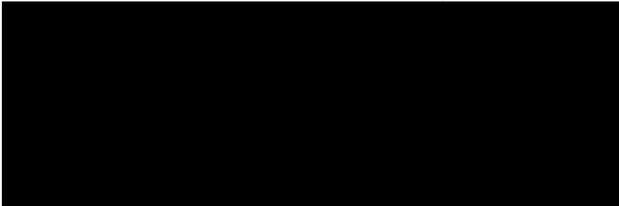


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U.S. Citizenship
and Immigration
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FILE:



Office: ROME, ITALY

Date:

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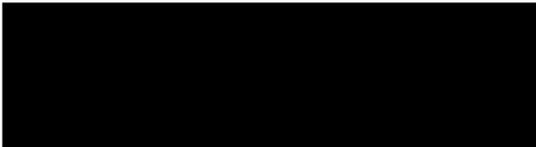
IN RE:



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).

ON BEHALF OF APPLICANT:



PHOTIC COPY

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 application for permission to reapply for admission after removal was denied by the Acting District Director, Rome, Italy, and 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 district director issued the decision on June 17, 2005. The appeal was received by CIS on June 28, 2006, or 376 days after the decision was issued. Accordingly, the appeal was untimely filed. The record includes an attachment to Form I-72 which notes that the record does not include a Form I-290B for the Form I-212 denial and requests that the applicant submit a Form I-290B if he intends to file one. *Attachment to Form I-72*, dated May 24, 2006. The AAO notes that this request is not permissible as the aforementioned 33 day period had expired at the time of the request and there are no procedural defects which would allow a late filing.

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 district director, Rome, Italy. *See* 8 C.F.R. § 103.5(a)(1)(ii). The acting district director 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.