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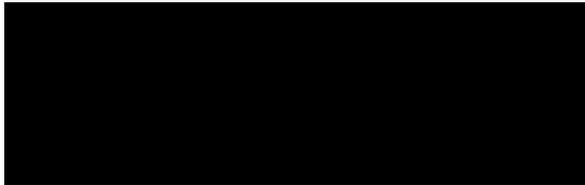
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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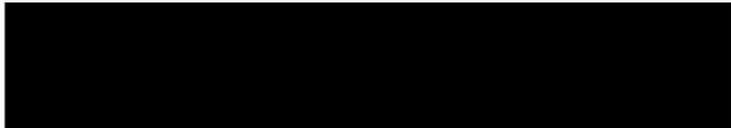


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 10 2008

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)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center denied the Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen or reconsider. The motion will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(i)(1) requires that:

(i) [A]ny motion to reconsider an action by the Service [now Citizenship and Immigration Services] filed by an applicant or petitioner *must* be filed within 30 days of the decision that the motion seeks to reconsider. Any motion to reopen a proceeding before the Service [now Citizenship and Immigration Services] filed by an applicant or petitioner, *must* be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service [now Citizenship and Immigration Services] where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

The record indicates that the AAO dismissed the applicant's appeal on August 15, 2006 and that the applicant, through counsel, filed the motion to reopen or reconsider with Citizenship and Immigration Services (CIS) on October 11, 2006, 57 days after the AAO issued its decision. Accordingly, the applicant's motion was untimely filed.

The AAO finds the record to offer no basis on which to excuse the applicant's late filing of the motion. The applicant's counsel initially submitted the motion to reopen or reconsider on September 12, 2006 with an unsigned check or money order. On September 13, CIS returned the motion to counsel indicating the deficiency. Counsel resubmitted the motion to reopen or reconsider with the unsigned check or money order and, on September 28, 2006, CIS again rejected the motion. It was not until October 11, 2006 that the applicant's motion to reopen or reconsider was properly filed. Based on the evidence of record, the AAO concludes that the applicant's failure to file the motion within the 30 day period was neither reasonable nor beyond her control.

As the motion to reopen or reconsider was untimely filed, it must be rejected.

ORDER: The motion is rejected.