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U.S. Citizenship  
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Services

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[Redacted]

FILE:

[Redacted]

Office: ATHENS, GREECE

Date: JUL 14 2005

IN RE:

[Redacted]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under § 212(i) of the  
Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[Redacted]

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*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Officer in Charge, Athens, Greece, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Greece who was found to be inadmissible to the United States under §§ 212(a)(6)(C)(i), 212(a)(9)(A), 212(a)(9)(B)(i)(II), and 212(a)(9)(C) of the Immigration and Nationality Act (the Act) for having attempted to procure entry into the United States by fraud or willful misrepresentation, as an alien ordered removed at the port of entry, as an alien unlawfully present, and as an alien unlawfully present after previous immigration violations. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his U.S. citizen spouse.

The officer in charge concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly.

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 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 the decision on February 14, 2005 and gave notice to the applicant that he had 33 days to file the appeal. CIS received the appeal on April 8, 2005, or 54 days after the decision was issued. 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 officer in charge. *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 be rejected.

**ORDER:** The appeal is rejected.