



U.S. Citizenship
and Immigration
Services

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FILE:



Office: MIAMI

Date:

JUL 26 2006

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(A)(9)(b)(v)

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 Administrative Appeals Office (AAO), dismissed the appeal of the waiver application. The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion to reopen within 30 days of service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued the decision on January 12, 2004. Citizenship and Immigration Services (CIS) received the motion on February 17, 2004, or 36 days after the decision was issued. Accordingly, the motion was untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that failure to file a motion within 30 days of the decision that the motion seeks to reopen may be excused where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. Counsel fails to provide any excuse as to why he did not file the motion within 30 days of the issuance of the decision.

As the motion was untimely filed, it must be dismissed.

ORDER: The motion is dismissed.