

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



H4

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 28 2005

IN RE:

Applicant:



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:

SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The applicant is a native and citizen of Mexico whom an Immigration Judge ordered removed from the United States on June 2, 1997, pursuant to section 237(a)(2)(C) of the Immigration and Nationality Act (the Act), for having been convicted at any time after admission for possession of a firearm. Consequently the applicant was removed from the United States. The applicant is inadmissible to the United States because he falls within the purview of sections 212(a)(2)(A)(i)(I) of the Act 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude and section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). The applicant seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii) in order to travel to the United States and reside with his family.

The Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors and denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) accordingly. *See Director's Decision* dated September 27, 2004.

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 Director issued the decision on September 27, 2004. It is noted that the Director properly gave notice to the applicant that he had 33 days to file the appeal. The Notice of Appeal to the AAO (Form I-290B) was received by the California Service Center on October 25, 2004. It was rejected and returned to the applicant because he had not signed it.

The regulation at 8 C.F.R. § 103.2(a) states in pertinent part:

. . . .

(7) *Receipt date-* (i) *General.* An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204 or part 245 or part 245a of this chapter, shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions, and ones in which the check or other financial instrument used to pay the filing fee is subsequently returned as non-payable will not retain a filing date . . .

The applicant signed the Form I-290B and resubmitted it to the California Service Center. The appeal was received by the California Service Center on November 2, 2004, 36 days after the decision was mailed. As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected as untimely filed.