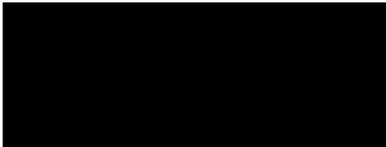


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prevent clearly unwarranted  
invasion of personal privacy**

**PUBLIC COPY**



**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
*Office of Administrative Appeals*  
20 Massachusetts Ave., NW, MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**



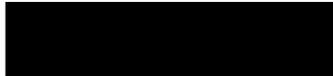
#5

DATE: **FEB 21 2012**

OFFICE: BALTIMORE, MD



IN RE:



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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink that reads "Perry Khew".

Perry Khew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Form I-601, Application for Waiver of Inadmissibility (Form I-601) was denied by the District Director, Baltimore, Maryland on May 18, 2007, and the matter was appealed to the Administrative Appeals Office (AAO) on June 19, 2007. The AAO dismissed the appeal on September 2, 2009. The matter is now before the AAO on a Motion to Reopen and Reconsider. The motion will be rejected as untimely filed.

The regulations provide at 8 C.F.R. § 103.5(a)(1)(i) that in order to properly file a motion to reopen or reconsider, the affected party must file the motion within 30 days after service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is the date of actual receipt of the motion, not the date of mailing. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record reflects that on September 2, 2009, the AAO sent a decision dismissing the applicant's appeal to the applicant's address of record, and to the applicant's attorney. The decision advised the applicant he could file a motion to reopen or reconsider within 30 days of the AAO decision date. The applicant's motion to reopen and reconsider was filed on October 7, 2009, 35 days after the AAO decision was issued. The motion to reopen and reconsider is therefore untimely pursuant to 8 C.F.R. § 103.5.

Under 8 C.F.R. § 103.5(a)(1)(i), the untimely filing of a motion to reopen or reconsider may be excused in the discretion of U.S. Citizenship and Immigration Services, where it is demonstrated that the delay was reasonable and was beyond the control of the applicant.

In the present matter, the applicant does not assert that his failure to timely file the motion to reopen or reconsider was reasonable or beyond his control, and the record contains no information or evidence to establish such facts. The AAO therefore determines that the motion was untimely filed, and that it must be rejected.

**ORDER:** The motion to reopen and reconsider is rejected.