U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

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[redacted]

Date: APR 0 2 2012 Office: CALIFORNIA SERVICE CENTER FILE: [redacted]

IN RE: Applicant: [redacted]

Application: Application to Register Permanent Residence or Adjust Status (Form I-485) Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application to adjust status was denied by the Director of the California Service Center ("the director") and the matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The motion will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico, who filed an Application to Register Permanent Resident or Adjust Status (Form I-485) and an Application for Waiver of Grounds of Inadmissibility (Form I-601). The director denied the Form I-601 and the Form I-485. The applicant submitted a Notice of Appeal or Motion (Form I-290B) to appeal the director's decision on the Form I-601, which the AAO dismissed. The applicant filed a motion to reopen, indicating at Part 2 of the Form I-290B that his motion related to the denial of the Form I-485. Accordingly, the AAO shall treat the Form I-290B as a motion relating to the Form I-485, not the Form I-601.[1]

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 complete motion 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. § 103.8(b). Neither the Immigration and Nationality Act ("the Act") nor the pertinent regulations grant the AAO authority to extend this time limit. The director issued the Form I-485 denial decision on May 17, 2008, and the applicant filed the instant motion on June 14, 2011, more than three years later. Accordingly, the motion was not timely filed and must be dismissed for failing to meet applicable requirements. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion is dismissed. The Form I-485 remains denied.

[1] The applicant bears the burden of completing the Form I-290B accurately and according to its instructions. *See* 8 C.F.R. § 103.2(a)(1).