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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

H2

[REDACTED]

FILE: [REDACTED] Office: CHICAGO DISTRICT OFFICE

Date: **JAN 28 2005**

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (INA), 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal¹. The appeal will be rejected.

The record reflects that the applicant is a native and citizen of Nigeria who was found inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The record reflects that the applicant is the spouse of a U.S. citizen. She seeks a waiver of inadmissibility in order to remain in the United States with her husband and adjust status to that of a lawful permanent resident under INA § 245, 8 U.S.C. § 1255, as the beneficiary of an approved immediate relative petition filed on her behalf by her U.S. citizen husband.

The district director found that the applicant failed to establish extreme hardship to her U.S. citizen spouse and denied the application 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 director issued the decision on August 26, 2003. The appeal was received by Citizenship and Immigration Services on December 14, 2004, or 476 days after the decision was issued. Accordingly, the appeal was untimely filed.²

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The record does not contain the original of the I-290B filed with the Chicago District Office, however, it does contain a photo copy of the I-290B and the fee receipt for the filing of the appeal, provided by counsel. The AAO will therefore accept the fact that the appeal was filed.

² The AAO notes that counsel filed a Motion to Reopen on October 20, 2003. The record does not contain a decision on that motion, therefore, as the last decision, the denial of the I-601 waiver, was made by the Chicago District Office, that office has jurisdiction over the motion.