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



U.S. Citizenship  
and Immigration  
Services

42

[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES, CA

Date:

SEP 28 2009

IN RE:

[REDACTED]

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 PETITIONER:

[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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Los Angeles, California. The applicant timely appealed to the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The matter is now before the AAO on a Motion to Reopen/Motion to Reconsider. The Motion to Reopen/Motion to Reconsider will be rejected as untimely filed.

In order to properly file a Motion to Reopen/Motion to Reconsider, the regulation at 8 C.F.R. § 103.5(a) provides that any motion to reopen or reconsider a proceeding before United States Citizenship and Immigration Services (USCIS) must be filed within 30 days of the decision that the motion seeks to reopen or reconsider, except that failure to file before this period expires may be excused in the discretion of USCIS where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. The regulation also provides that a motion must be submitted to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction. 8 C.F.R. § 103.5(a)(iii)(E).

The record indicates that the District Director, Los Angeles, California issued a decision on October 5, 2004 denying the Form I-601, Application for Waiver of Grounds of Inadmissibility, filed by the applicant. On November 5, 2004, the applicant filed a Form I-290B to appeal the District Director's denial. On May 10, 2006, the AAO dismissed the applicant's appeal. On June 9, 2006 and again on June 15, 2006, the applicant incorrectly submitted a Motion to Reopen/Motion to Reconsider directly to the AAO. On June 9, 2006 and June 15, 2006, the AAO rejected and returned the motion to the applicant. On June 23, 2006, the applicant properly filed the Motion to Reopen/Motion to Reconsider with USCIS. As the Motion to Reopen/Motion to Reconsider was not properly filed until June 23, 2006, 44 days after the decision was issued, the Motion to Reopen/Motion to Reconsider was untimely filed. There is nothing in the record to demonstrate that the delay was reasonable and was beyond the control of the applicant.

As the Motion to Reopen/Motion to Reconsider was untimely filed, it must be rejected.

**ORDER:** The Motion to Reopen/Motion to Reconsider is rejected.