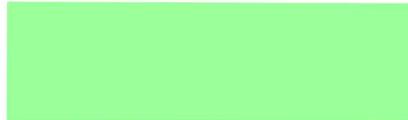


(b)(6)

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



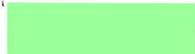
U.S. Citizenship  
and Immigration  
Services



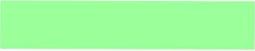
Date: Office: BALTIMORE

DEC 13 2013

FILE:



IN RE: Applicant:



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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Baltimore, Maryland, and the subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion. The motion will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.5(a) states that any motion to reopen and/or reconsider a proceeding before the service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen and/ reconsider, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that a delay was reasonable and was beyond the control of the applicant or petitioner. If the decision is mailed, the 30 day period for submitting an appeal begins 3 days after it is mailed. 8 C.F.R. § 103.8(b).

The record indicates that the AAO issued its decision on October 8, 2013. The AAO properly gave notice to the applicant that he had 33 days to file a motion. The appeal was not received until November 13, 2013, 36 days after the decision was issued. Accordingly, the motion to reopen was untimely filed.

There is no indication that failure to file within the time allotted was reasonable and was beyond the control of the applicant. The AAO therefore declines to exercise discretion and excuse the applicant's failure to file within 33 days of the decision pursuant to 8 C.F.R. §103.5(a)(1)(i). Accordingly, the motion to reopen will be rejected as untimely filed.

**ORDER:** The motion is rejected as untimely filed.