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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

713

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FILE:



Office: MEXICO CITY (PANAMA CITY)

Date: JUL 03 2007

IN RE:

Applicant:



APPLICATIONS:

Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v), and Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Mexico City, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The AAO notes that the applicant's appeal was not timely filed. 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 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 District Director issued the decision on June 16, 2006. It is noted that the District Director properly gave notice to the applicant that she had 33 days to file the appeal. Additionally, the District Director instructed the applicant to pay the \$385.00 filing fee either with an International Bank Draft or Cashier's Check. On July 20, 2006, the applicant submitted her appeal with a Money Order for \$385.00, which the District Director returned to the applicant. Citizenship and Immigration Services (CIS) received the properly filed appeal on August 14, 2006, or 59 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the official who made the last decision was the District Director, Mexico City, Mexico. *See* 8 C.F.R. § 103.5(a)(1)(ii). The District Director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

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

ORDER: The appeal is rejected.