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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

7/4

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FILE:



Office: HOUSTON, TEXAS

Date:

JUL 31 2007

[consolidated therein]  
[consolidated therein]

IN RE:

Applicant:



APPLICATION:

Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9).

ON BEHALF OF APPLICANT:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permission to reapply for admission after removal was denied by the District Director, Houston, Texas, 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 November 8, 2005. It is noted that the District Director properly gave notice to the applicant that he had 33 days to file the appeal. Citizenship and Immigration Services (CIS) received the appeal on December 30, 2005, or 52 days after the decision was issued. Accordingly, the appeal was untimely filed.

Counsel states he made an "honest mistake" and initially attempted to file the appeal with the AAO. *See letter from* [REDACTED] dated December 20, 2005. The AAO notes that appeal was received by the AAO on December 13, 2005, which would still be untimely by one (1) day.

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, Houston, Texas. *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.