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

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MAY 08 2007

FILE:

Office: FRANKFURT, GERMANY

Date:

IN RE:

Applicant:

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

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 Officer in Charge, Frankfurt, Germany denied the I-601, Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely 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 Officer in Charge issued the decision on May 24, 2006. It is noted that the director properly gave notice to the petitioner that it had 33 days to file the appeal and that the appeal should not be sent directly to the AAO. The appeal was received by CIS on August 15, 2006, or 83 days after the decision was issued. The appeal was initially sent to the AAO and received on August 3, 2006. An appeal is not properly filed until it is received by the proper office, in this case Frankfurt, Germany.

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 Officer in Charge. *See* 8 C.F.R. § 103.5(a)(1)(ii). The Officer in Charge 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.