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U.S. Citizenship
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MAY 18 2007

FILE:

Office: CIUDAD JUAREZ, MEXICO

Date:

(CDJ 2004 815 354 RELATES)

IN RE:

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, Ciudad Juarez, Mexico denied the waiver application and 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 after 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 September 26, 2005. It is noted that the director properly gave notice to the petitioner that she had 33 days to file the appeal. The AAO notes that the applicant submitted a Western Union money order with her appeal on October 25, 2005. This money order was rejected by the officer-in-charge. The applicant received a letter from the officer-in-charge, dated October 25, 2005, which stated that her money order from Western Union would not be accepted by the American Consulate Cashier and that she needed to send a Postal Money Order. The officer-in-charge stated that the new money order must reach the office by November 4, 2005. The appeal and the postal money order were received by the district office on November 23, 2005, 57 days after the decision was issued and 19 days after the November 4, 2005 deadline. 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 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.