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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

H4

[REDACTED]

FILE: [REDACTED] Office: FRESNO, CA Date: **AUG 16 2010**

IN RE: [REDACTED]

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

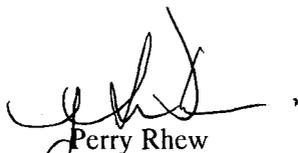
ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) was denied by the Field Office Director, Fresno, California. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion to reconsider will be dismissed. The application will be denied.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion to reopen within 30 days of service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued the decision on November 4, 2009. The applicant incorrectly filed the appeal with the AAO on December 4, 2010. An appeal is not properly filed until the field office receives it. The AAO returned the appeal to the applicant and informed her that she had incorrectly filed the appeal with this office. On December 16, 2009, or 42 days after the decision was issued, U.S. Citizenship and Immigration Services (USCIS) received the motion. Accordingly, the motion was untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that failure to file within the 30 days of the decision that the motion seeks to reopen may be excused where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. The applicant fails to provide *any* explanation as to why she did not file the motion within 30 days of the issuance of the decision.

As the motion was untimely filed it must be dismissed pursuant to 8 C.F.R. § 103.5(a)(4), for failing to meet applicable requirements.

ORDER: The motion is dismissed and the application is denied.