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



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

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DATE: OFFICE: SAN FRANCISCO, CA FILE: [REDACTED]

**JUL 13 2011**

IN RE: [REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The District Director, San Francisco, California denied the application and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The applicant filed a motion to reconsider, which was rejected by the AAO as untimely filed. The applicant has again submitted a motion to reconsider. The motion will be rejected as untimely filed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation. The applicant is married to a lawful permanent resident and has four U.S. citizen children. She seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

Pursuant to 8 C.F.R. § 103.5(a)(1)(i), a motion to reconsider a decision on an application or petition must be filed within 30 days (33 days if mailed) of the decision that the motion seeks to reconsider. Neither the Act, nor regulation grants the AAO the authority to extend the filing period for a motion to reconsider. Regulation also requires that a motion to reconsider establish that the prior decision was based on an incorrect application of law or policy and was incorrect based on the evidence of record at the time it was made. 8 C.F.R. § 103.5(a)(3).

In the present case, the record indicates that the AAO issued the decision rejecting the applicant's motion as untimely filed on January 31, 2011 and alerted the applicant to the regulatory requirements for filing a motion to reconsider. The decision also informed the applicant that any motion was to be submitted to the office that had originally decided her case, i.e., the San Francisco District Office. The record indicates, however, that the applicant submitted the Form I-290B directly to the AAO on March 3, 2011 and that it was not properly filed with United States Citizenship and Immigration Services until April 6, 2011, 65 days after the issuance of the decision. Accordingly, the applicant's motion was untimely filed.

The AAO also notes that even if the applicant's motion had been timely filed, it fails to meet the evidentiary burden imposed on motions to reconsider by the regulation at 8 C.F.R. § 103.5(a)(3). Counsel's brief addresses issues unrelated to the AAO's rejection of the applicant's prior motion. Therefore, it does not establish that the AAO's decision was based on an incorrect application of law or policy, or that it was incorrect based on the evidence reviewed by the AAO at the time we considered the record.

As the instant motion was untimely filed, it will be rejected.

**ORDER:** The motion is rejected.