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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



715

DATE: **MAY 31 2011**

Office: NEW YORK

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT:



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 \$630. 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 District Director, New York, New York, denied the Form I-601, Application to Waive Inadmissibility Grounds (Form I-601). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly 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 an appeal on the Form I-290B, Notice of Appeal or Motion (Form I-290B) to the Administrative Appeals Office¹, including the required filing fee, with the office where the unfavorable decision was made. Despite the instructions provided by the district director, counsel for the applicant submitted the Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals and a filing fee of \$110. The Form I-290B and the corresponding filing fee of \$630 were not provided. Accordingly, the appeal has not been properly filed. The district director erroneously annotated the appeal as properly filed and forwarded the matter to the AAO.

Neither the Act nor the pertinent regulations grant the AAO authority to accept an appeal without the corresponding Form I-290B, Notice of Appeal or Motion and filing fee. As the appeal was improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The AAO notes that the Decision of the District Director specifically stated that the applicant “may appeal this decision to the Administrative Appeals Office....” *Decision of the District Director*, dated October 15, 2010.