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



115

DATE: **OCT 19 2011**

OFFICE: LOS ANGELES

FILE: 

IN RE: 

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:

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 \$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,

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Form I-601, Application for Waiver of Inadmissibility (Form I-601) was denied by the District Director, Los Angeles, California on February 26, 2007. The matter was appealed to the Administrative Appeals Office (AAO) on March 22, 2007. The AAO dismissed the appeal on March 6, 2010. The matter is now before the AAO on a Motion to Reopen and Reconsider (Motion). The motion will be rejected as untimely filed.

In the present case, the AAO issued a decision dismissing the applicant's appeal on March 6, 2010. The AAO decision advised the applicant she could file a Motion to Reconsider or a Motion to Reopen within 30 days of the date on the AAO decision. The applicant was further advised that a motion must be submitted with a completed Form I-290B, Notice of Appeal or Motion (Form I-290B) and payment of fee to the office that originally decided the applicant's case. On April 6, 2010, the applicant submitted a Form I-290B with attachments and fee directly to the AAO. The Form I-290B, attachments and fee were returned to the applicant on April 6, 2010, based on the AAO's inability to accept filing and fee payment for a Form I-290B. The applicant subsequently filed the Form I-290B with fee at the office that originally decided her case (the Los Angeles district office) on April 13, 2010.

The regulations provide at 8 C.F.R. § 103.5(a)(1)(i) that in order to properly file a motion to reopen or reconsider, the affected party must file the motion within 30 days after 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 regulations state further at 8 C.F.R. § 103.5(a)(iii)(E), that the Form I-290B and fee must be submitted to the office maintaining the record upon which the unfavorable decision was originally made.

In this case, although the applicant submitted her Form I-290 to the AAO within the 30-day (33-day) time frame allowed for filing a motion, the motion was not considered *filed* until she submitted her completed Form I-290B with fee to the office that originally issued a decision in her case (in this case, the Los Angeles district office). The applicant filed her Form I-290B with fee at the Los Angeles district office on April 13, 2010 - 39 days after the AAO decision was issued. The motion was therefore untimely filed, and must be rejected.

ORDER: The Form I-290B, Notice of Appeal or Motion is rejected.