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



#5

DATE: FEB 14 2012 Office: COPENHAGEN, DENMARK



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), and Section 212(h) of the Immigration and Nationality Act, 8 U.S.C. § 1182(h).

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Immigration Attaché in Copenhagen, Denmark. The appeal was denied by the AAO. The matter is now before the Administrative Appeals Office (AAO) on Motion to Reopen and a Motion to Reconsider. The motion will be rejected.

The regulation at 8 C.F.R. § 103.5(a) provides that any Motion to Reconsider be filed within 30 days after service of an unfavorable decision. Neither the Act nor the pertinent regulations grant the AAO authority to extend the time limit for filing a Motion to Reopen. The regulation at 8 C.F.R. § 103.5(a) further provides that any Motion to Reopen must be filed within 30 days after service of an unfavorable decision, except that failure to file within 30 days may be excused by United States Citizenship and Immigration Services (USCIS) where it is demonstrated that the delay was reasonable and was beyond control of the applicant. 8 C.F.R. § 103.5(a)

The record reflects that the AAO sent the decision on May 22, 2009, to the applicant at the applicant's address of record. It is noted that the Acting Chief stated that the applicant had 30 days to file a motion with the appropriate office. The motion was not received until October 30, 2009, 161 days after the decision was issued. Therefore, the motion was untimely.

As noted above, neither the Act nor the pertinent regulations grant the AAO authority to extend the time limit for filing a Motion to Reconsider. The applicant has not demonstrated that the failure to file the Motion to Reopen was reasonable or that it was beyond the applicant's control. As such, the AAO finds no basis excusing the applicant's failure to file the motion within 30 days.

As the motion was untimely filed, the motion must be rejected.

ORDER: The motion is rejected.