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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**



H5

DATE: **SEP 28 2012**

Office: LATHAM, NY

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.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Officer Director, Latham, New York and the matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed. The applicant has filed a Motion to Reconsider. The Motion will be dismissed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that an affected party must, without exception, file any motion to reconsider within 30 days of the decision that the motion seeks to reconsider. If the decision was mailed, the 30-day period for submitting a motion begins 3 days after it is mailed. 8 C.F.R. § 103.8(b). The date of filing is the date of actual receipt, not the date of mailing. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record reflects that the AAO's decision was issued on December 15, 2010 and mailed to the applicant at the applicant's address of record. It is noted that the AAO instructed the applicant that any motion had to be submitted, within 30 days, to the office that originally decided the case. Although the applicant dated the motion on January 10, 2011, it was mailed on January 13, 2011 directly to the AAO and not received by the appropriate office until January 27, 2011, more than 33 days after the decision was issued. Therefore, the motion was untimely filed and must be dismissed.

Neither the Act nor the pertinent regulations grant the AAO authority to extend the time limit for filing a motion to reconsider. *See* 8 C.F.R. § 103.5(a)(1)(i). The applicant's motion to reconsider must be dismissed as untimely filed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion is dismissed.