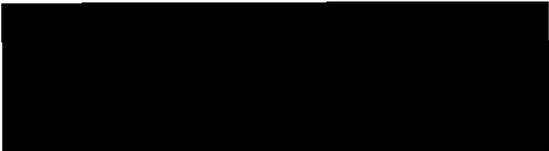


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



HG

DATE: **DEC 17 2012**

Office: GUATEMALA CITY

FILE: 

IN RE: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

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 "Ron Rosenberg".

Ron Rosenberg, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Officer Director, Guatemala City, Guatemala. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on motion. The motion will be rejected.

The regulation at 8 C.F.R. § 103.5(a) states that any motion to reopen a proceeding before the service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that a delay was reasonable and was beyond the control of the applicant or petitioner.

The record indicates that the AAO issued its decision on January 12, 2012. The AAO properly gave notice to the applicant that she had 30 days to file a motion. As the decision was mailed, the 30-day period for submitting an appeal began 3 days after the decision was mailed. 8 C.F.R. § 103.8(b). The record indicates that the motion to reopen and reconsider was received by on August 16, 2012, well beyond the 30-day period.¹ The applicant has not demonstrated that the delay was reasonable or was beyond their control. 8 C.F.R. § 103.5(a).

Accordingly, the motion will be rejected as untimely filed.

ORDER: The motion is rejected.

¹ The AAO also notes that the regulation at 8 C.F.R. §103.5(a)(1)(iii) lists the filing requirements for motions to reopen and motions to reconsider. Section 8 C.F.R. § 103.5(a)(1)(iii)(C) requires that motions be “[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding.” The AAO notes that the instant motion does not contain the statement required by this regulation.