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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

H6



Date **FEB 23 2012**

Office: NEW YORK, NY

FILE



IN RE:

Applicant



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry 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 Khew

Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Senegal who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States. He seeks a waiver of inadmissibility in order to reside in the United States.

The district director found that the applicant had failed to establish extreme hardship to a qualifying relative and the application was denied accordingly. *Decision of the District Director*, dated September 22, 2011.

Title 8 C.F.R. § 103.2(a)(7)(i) requires that U.S. Citizenship and Immigration Services (USCIS) reject any petition or application filed with the incorrect filing fee. Likewise, 8 C.F.R. § 103.3(a)(2)(i) requires the affected party to file an appeal using Form I-290B. In this case, the petitioner filed an appeal using Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a USCIS Officer,¹ and submitted an incorrect filing fee of \$110.00.² Therefore, the appeal will be rejected as improperly filed.

ORDER: The appeal is rejected.

¹While the applicant improperly filed the appeal using Form EOIR-29, it must be noted that the Board of Immigration Appeals does not have jurisdiction over this matter. See 8 C.F.R. § 1003.1(b). The AAO properly has jurisdiction over this matter. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv).

²The filing fee for an appeal to the AAO is \$630.