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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office  
20 Mass. Ave., N.W., MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**



H6

DATE: **JUL 10 2012** OFFICE: MEXICO CITY, MEXICO  
(PANAMA CITY, PANAMA)

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 cursive script that reads "Michael Shumway".

*for* Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting District Director, Mexico City, Mexico denied the application and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The applicant has filed a joint motion to reopen and motion to reconsider. The motion will be rejected as untimely filed.

The applicant is a native and citizen of Ecuador who was found to be inadmissible to the United States under 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 admission within ten years of his last departure. The applicant is married to a U.S. citizen. He seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v).

Pursuant to 8 C.F.R. § 103.5(a)(1)(i), a motion to reconsider or a motion to reopen a decision on an application or petition must be filed within 30 days (33 days if mailed) of the decision that the motion seeks to reconsider. While neither the Act nor regulation grants the AAO the authority to extend the filing period for a motion to reconsider, the late filing of a motion to reopen may be excused in cases where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner.

In the present case, the record indicates that the AAO issued the decision dismissing the applicant's appeal on December 29, 2010 and alerted the applicant to the regulatory requirements for filing a motion to reopen or a motion to reconsider. The decision also informed the applicant that any motion was to be submitted to the office that had originally decided his case, i.e., to United States Citizenship and Immigration Services (USCIS) at the U.S. Embassy in Panama City, Panama. The record indicates, however, that the applicant submitted the Form I-290B, Notice of Appeal or Motion, directly to the AAO on February 1, 2011 and that it was not properly filed with USCIS in Panama until June 1, 2011, 154 days after the issuance of the decision.

The applicant has submitted additional evidence with the Form I-290B, which establishes it as a motion to reopen. However, the record offers no evidence that would indicate its late filing was reasonable and beyond the control of the applicant and, therefore, may be excused. Accordingly, the AAO finds the applicant's motion to be untimely filed.

As the instant motion was untimely filed, it will be rejected.

**ORDER:** The motion is rejected.