



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

(b)(6)

DATE: JUN 12 2013

Office: ROME, ITALY

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(a)(9)(B)(v) of the Immigration and Nationality Act (the 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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Rome, Italy. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that an affected party must file a complete appeal within 30 days after service of an unfavorable decision. If the decision is mailed, the 30-day period for submitting an appeal begins 3 days after it is mailed. 8 C.F.R. § 103.8(b). The date of filing is the date of actual receipt of the appeal, not the date of mailing. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record reflects that the field office director issued the decision on June 25, 2012. It is noted that the field office director stated that the applicant had thirty days of the date the notice was served to file an appeal. The record shows that the appeal was not filed until August 2, 2012, thirty-eight days after the date of the decision. Therefore, the appeal was untimely filed and must be rejected. The AAO notes that although an untimely appeal may be treated as a motion if it meets the requirements of a motion to reopen or a motion to reconsider, in a decision dated August 21, 2012, the field office director has already determined that the late appeal does not meet the requirements of a motion.

In addition, on February 28, 2013, the AAO requested by facsimile and by FedEx a new and properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both counsel and the applicant, as required by 8 C.F.R. § 292.4(a) and as stated on the instructions to the Form I-290B. To date, the AAO has not received a new, properly executed Form G-28. Without a new, fully executed Form G-28 authorizing counsel to represent the applicant, the AAO cannot consider the appeal, which was signed by and filed by counsel, to have been properly filed. Therefore, the AAO must reject the appeal as improperly filed. *See* 8 C.F.R. § 103.3(a)(2)(v)(A)(2).

As the appeal was both untimely and improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected.