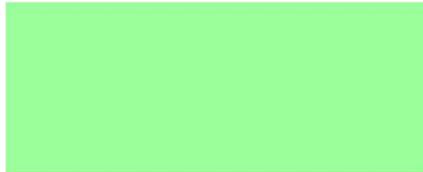


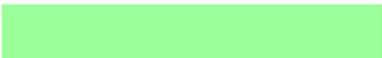
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave. NW MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



(b)(6)

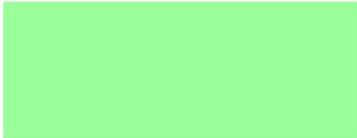


DATE: **MAR 15 2013** OFFICE: CIUDAD JUAREZ FILE: 

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:



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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

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 Office Director, Ciudad Juarez, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. 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 April 6, 2012 to the applicant at the applicant's address of record. The applicant had 33 days to file an appeal to the Field Office Director. The record indicates that the applicant was notified on May 31, 2012 that her application did not contain the proper fee payment. More specifically, the notice stated "the check amount is incorrect, or has not been provided." Neither the Act nor the pertinent regulations grant the AAO authority to extend the time limit for filing an appeal. However, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case.

In this case, the AAO notes that it would serve no purpose to determine whether this application meets the definition of a motion. The record indicates that since the filing of the appeal, the applicant has attempted to unlawfully enter the United States on two occasions. The applicant, who was initially found to be inadmissible under section 212(a)(9)(B)(i)(II), for having been unlawfully present in the United States for one year or more, attempted to unlawfully enter the United States after having been unlawfully present for one year or more, on April 27, 2012. On that date, she was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for presenting a U.S. lawful permanent resident card issued to another individual in an attempt to gain admission to the United States. The applicant was ordered removed under section 240 of the Act. The applicant then again attempted unlawful entry into the United States again on June 1, 2012, by making a false claim to U.S. citizenship. The applicant was again ordered removed under section 240 of the Act. At this time, not only is the applicant now inadmissible under section 212(a)(9)(C)(i)(I)&(II) of the Act for attempting unlawful entry after her previous period of unlawful presence and a previous removal order, but she is also now inadmissible under section 212(a)(6)(C)(ii) of the Act for having made a false claim of U.S. citizenship in order to gain entry into the United States. There is no waiver available for inadmissibility under section 212(a)(6)(C)(ii) of the Act. Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant's improperly filed appeal should be accepted as a motion to reopen.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.