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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

DATE: Office: NEBRASKA SERVICE CENTER

NOV 25 2013

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Reentry Permit Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. 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 M. Rosenberg".

Ron M. Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the Application for Travel Document, Form I-131. The applicant appealed the decision to the Administrative Appeals Office (AAO). The appeal will be rejected as untimely filed.

The director denied the Application for Travel Document, Form I-131, on June 26, 2012 and notified the applicant that regulations do not provide for an appeal of the decision. The director also notified the applicant that she may file a motion to reopen or reconsider an adverse decision.<sup>1</sup> On August 7, 2012, the applicant submitted a Form I-290B, Notice of Appeal or Motion indicating at Part 2 that she is filing an appeal of the Form I-131 which was denied on June 26, 2012.

The appeal will be rejected because it was untimely filed. In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party or the attorney or representative of record must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. See 8 C.F.R. § 103.2(a)(7)(i).

In this case, the record reflects that the director issued the decision denying the Form I-131 on June 26, 2012. The applicant filed a Form I-290B, with the appropriate agency on August 7, 2012, Forty-Three (43) days after the decision was issued. Accordingly, the appeal was untimely filed.

If an untimely appeal meets the requirements of a motion to reopen or reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the director, Nebraska Service Center. 8 C.F.R. § 103.5(a)(1)(ii). As required by 8 C.F.R. § 103.3(a)(2)(ii)-(iv), the director reviewed the appeal prior to forwarding it to the AAO, and did not conclude that it met the requirements of a motion or otherwise warrant favorable action. Therefore, the untimely appeal must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

**ORDER:** The appeal is rejected.

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<sup>1</sup> The regulation at 8 C.F.R. § 223.1(a) provides that a reentry permit allows a permanent resident to apply for admission to the United States upon return from abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa. And the regulation at 8 C.F.R. § 223.2(g) provides that denial of an application for a reentry permit or refugee travel document may be appealed in accordance with 8 C.F.R. § 103.3. In this case, the record does not reflect that the applicant is a permanent resident or that she has a pending Form I-485, Application for Permanent Residence or Adjust Status, at the time she filed the Form I-131 application. Therefore, on June 26, 2012, the director denied the Form I-131 because the applicant had no underlying Form I-485 application.