



U.S. Citizenship
and Immigration
Services

[REDACTED]

File: [REDACTED] Office: ATLANTA, GEORGIA Date: **OCT 20 2004**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

Petition: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

IN BEHALF OF PETITIONER:

[REDACTED]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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prevent unauthorized
disclosure of personal privacy

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DISCUSSION: The District Director of the Citizenship and Immigration Services Atlanta, Georgia, District office denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as 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 must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the district director issued the decision on May 12, 2004. The appeal was received on June 18, 2004, or 37 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the district director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The district director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

Further, we note that the petitioner, through counsel, has failed to specifically identify any erroneous conclusion of law or statement of fact.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

On the Form I-290B Notice of Appeal, counsel indicated that she needed 30 days in which to submit a brief and/or evidence to the AAO. Counsel stated the following as the reason for the appeal: “CIS misinterpreted Law and Fact in this case which resulted in an erroneous decision. More information and evidence regarding Appeal will be submitted within 30 days.”

To date, counsel has not submitted a brief or any evidence in support of the appeal.

Counsel’s meager description of the grounds for appeal as set out on the Form I-290B does not satisfy the specificity requirement of 8 C.F.R. §103.3(A)(1)(v). Counsel’s statement does not specifically address any of the detailed findings made by the district director or assert any *specific* claim that the district director’s findings are incorrect or based on an erroneous conclusion of law or CIS policy. In the absence of any allegation detailing specific errors made by the district director, we cannot find that counsel’s general statement qualifies as a substantive appeal. Thus, the appeal would be summarily dismissed were it not already rejected as untimely filed.

ORDER: The appeal is rejected.