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U.S. Citizenship  
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Services

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MAR 30 2007

FILE:

Office: BOSTON DISTRICT OFFICE

Date:

IN RE: Petitioner:  
Beneficiary:

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Boston, revoked the Petition to Classify Orphan as an Immediate Relative Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(1)(F) (the Act), which it had previously granted. 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 affected party must file the complete appeal, including the required fee, within 30 days of service of the unfavorable decision. Title 8, Code of Federal Regulations (8 C.F.R.) § 103.3(a)(2)(i). 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 March 21 2006. The petitioner sent the Notice of Appeal to the Administrative Office (Form I-290B, dated April 19, 2006) to the United States Citizenship and Immigration Services (CIS) Boston District Office, but it was not filed. It was instead returned to the petitioner with instructions to “remit application fee in the form of a money order or certified bank check.” Form I-72, dated April 20, 2006. The appeal was not filed until July 13, 2006, or 114 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 in Boston. *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.

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

**ORDER:** The appeal is rejected.