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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
LIN 07 093 50580

Office: NEBRASKA SERVICE CENTER

Date: DEC 17 2008

IN RE:

Applicant: [REDACTED]

PETITION: Application for Travel Document Pursuant to 8 C.F.R. § 223.1(b)

ON BEHALF OF APPLICANT:

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The applicant is a native and citizen of India who seeks to obtain a refugee travel document under 8 C.F.R. § 223.1(b). The director denied the application after determining that the applicant was not eligible for a travel document.

The regulation at 8 C.F.R. § 103.2(b)(7)(i), which discusses receipt dates, states that an application or petition shall be regarded as properly filed when it is signed and executed and the required filing fee is attached. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions will not retain a filing date.

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 of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a U.S. Citizenship and Immigration Services (USCIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the director issued the decision on June 27, 2007. On August 15, 2007, the applicant filed an appeal of that decision; however, the director rejected the appeal because the applicant failed to submit the proper fee. The applicant resubmitted the appeal with the proper fee on October 12, 2007, or 107 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. An untimely-filed appeal must meet specific requirements to be treated as a motion. The regulation at 8 C.F.R. § 103.5(a)(2) requires that a motion to reopen state the new facts to be provided in the reopened proceeding, supported by affidavits or other documentary evidence. Furthermore, 8 C.F.R. § 103.5(a)(3) requires that a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy.

Review of the record indicates that the appeal does not meet the requirements of a motion. The applicant states on appeal that he wishes to see his mother and father who are very old and weak. The applicant also states that he is applying for an advance parole document.



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As the appeal was untimely filed and the applicant has failed to provide any new facts or evidence that support a motion to reopen or reconsider, the appeal must be rejected.

**ORDER:** The appeal is rejected as untimely filed. The application is denied.