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U.S. Citizenship  
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FILE:



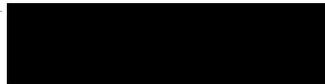
OFFICE: ATLANTA, GA

DATE: MAY 30 2006

IN RE:

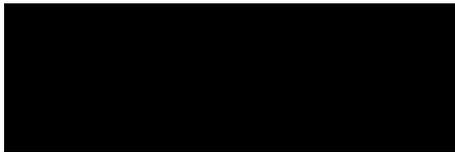
PETITIONER:

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:



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 petition was denied by the District Director, Atlanta, Georgia. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The record reflects that the district director approved the Form I-600, Petition to Classify Orphan as an Immediate Relative (I-600 Petition) on July 1, 2002. On July 26, 2005, the district director sent the petitioner a Notice of Intent to Revoke Approval of Orphan Petition, based on unfavorable information received from an overseas investigation. The district director revoked the I-600 Petition approval on September 12, 2005. The Decision to Revoke informed the petitioner that she had 15 days to appeal the decision to the AAO, pursuant to Volume 8 of the Code of Federal Regulations (8 C.F.R.) section 205.2

8 C.F.R. § 103.3(a)(2)(v)(B)(2) provides that, “[a]n appeal which is not filed within the time allowed must be rejected as improperly filed.”

The district director’s Decision to Revoke the petitioner’s I-600 petition is dated September 12, 2005. The record reflects that the petitioner attempted to file an appeal with the Atlanta, Georgia, U.S. Citizenship and Immigration Services (CIS) district office on September 30, 2005, 18 days after the date of the decision. The record reflects further that the applicant’s appeal was rejected as improperly filed (incorrect filing fee) pursuant to 8 C.F.R. § 103.2(a)(7). The petitioner’s appeal, with correct fee, was received by the Atlanta, Georgia district office on December 14, 2005, 93 days after the district director’s Decision to Revoke was issued.

Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(2), 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. *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 not filed within the time period allowed under 8 C.F.R. § 205.2, it must be rejected as improperly filed.

**ORDER:** The appeal is rejected.