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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529



U.S. Citizenship
and Immigration
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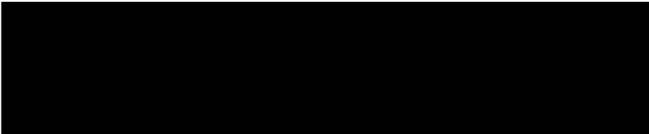
File: [Redacted] Office: CHARLOTTE FELD OFFICE

Date: OCT 29 2009

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Petition for Alien Relative (Form I-130) under Section 204 of the Immigration and Nationality Act, 8 U.S.C. § 1154

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.

Perry Rhew, Chief
Administrative Appeals Office

DISCUSSION: The petition was denied by the Field Office Director (FOD), Charlotte, North Carolina, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that in an August 6, 2009 decision, the FOD denied the petitioner's Form I-130, Petition for Alien Relative, to classify the beneficiary as the spouse of a U.S. citizen. The petitioner's counsel filed an appeal from that decision with the AAO. The AAO does not have appellate jurisdiction over an appeal from the denial of a Form I-130.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools and the appeals of denials of such petitions are now the responsibility of Immigration and Customs Enforcement.

An appeal of a Form I-130 is reviewed by the Board of Immigration Appeals (BIA), not U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 1003.1(b)(5). Therefore, to appeal the denial of a Form I-130, a Form EOIR-29 is required. 8 C.F.R. § 1003.3(a)(2). On August 24, 2009, the petitioner's counsel filed a Form I-290B with USCIS, not the appropriate Form EOIR-29 with the BIA. The AAO does not have jurisdiction over an appeal from the denial of a Form I-130 filed under section 204 of the Immigration and Nationality Act. Accordingly, the appeal must be rejected.

ORDER: The appeal is rejected.