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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
Services

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File:

SRC 04 204 52309

Office: HOUSTON, TEXAS

Date:

APR 28 2010

IN RE:

Petitioner:

Petition:

Petition for Widow(er) (Form I-360) Pursuant to Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(ii)

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DISCUSSION: The petition's approval was revoked by the Field Office Director (FOD), Houston, Texas, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner filed this petition pursuant to section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(ii), as a widow(er) of a U.S. citizen as described at section 201(b)(2)(A)(i) of the Act, 8 U.S.C. § 1151(b)(2)(A)(i). The record reflects that in a April 7, 2009 decision, the FOD revoked the prior approval of the petition.

The petitioner submitted a Form I-290B, Notice of Appeal, to the AAO seeking review of the director's decision revoking the I-360 petition's approval. The AAO lacks jurisdiction over this type of petition. 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 her 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 only over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003).¹

The Board of Immigration Appeals (BIA) within the U.S. Department of Justice has jurisdiction over alien relative petitions filed under section 204(a)(1)(A)(ii) of the Act. 8 C.F.R. § 1003.1(b)(5).² As the AAO has no jurisdiction over the appeal from the denial of the instant Form I-360, it must be rejected.

ORDER: The appeal is rejected.

¹ Subsequent regulations have granted the AAO jurisdiction over additional types of cases. *See e.g.*, 8 C.F.R. §§ 245.23(i), 245.24(f)(2) (providing for the appeal from the denial of adjustment of status applications filed by aliens in U and T nonimmigrant status).

² To appeal the denial of this Form I-360 to the BIA, the petitioner should have filed a Form EOIR-29. 8 C.F.R. § 1003.3(a)(2).