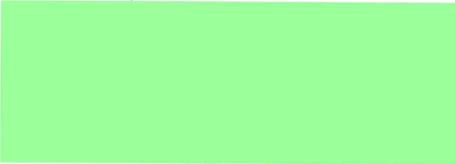




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **FEB 07 2013** Office: VERMONT SERVICE CENTER File: 

IN RE: Petitioner: 

PETITION: Petition for Immigrant Abused Child Pursuant to Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(B)(iii)

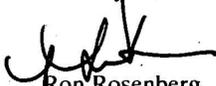
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center director (the “director”) denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely and improperly filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party or the attorney or representative of record 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. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on November 3, 2011. It is noted that the director properly gave notice to the petitioner that she had 33 days to file the appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit. The Form I-290B Notice of Appeal was not received by the service center until December 12, 2011, or 39 days after the decision was issued. Accordingly, the appeal was untimely filed.

Additionally, the appeal was improperly filed. An appeal may only be filed by an affected party. *See* 8 C.F.R. § 103.3(a)(2)(i). An affected party is a “person or entity with legal standing in a proceeding.” 8 C.F.R. § 103.3(a)(1)(iii)(B). An affected party may be represented by an attorney or accredited representative. *Id.* However, an appeal filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, shall be considered improperly filed and any filing fee will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(A)(2). An appeal filed by a person not entitled to do so must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

In this case, the Form I-290B, Notice of Appeal, was filed and signed by [REDACTED] who identified himself as an attorney or representative, but did not submit a Form G-28. The appeal was submitted by an individual who has not established that he is an attorney or representative entitled to represent the applicant before U.S. Citizenship and Immigration Services (USCIS) pursuant to the regulations at 8 C.F.R. §§ 103.2(a)(3) and 292.1(a). Consequently, the appeal must be rejected as improperly filed.

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

ORDER: The appeal is rejected.