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U.S. Citizenship
and Immigration
Services

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FILE: LIN 07 031 52127 Office: NEBRASKA SERVICE CENTER Date: JAN 02 2009

IN RE: Petitioner: 

PETITION: Petition for Special Immigrant Unmarried Son or Daughter of an International Organization Employee Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4)

ON BEHALF OF PETITIONER:

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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely 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 must file the complete appeal within 30 days of after 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). 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 July 12, 2007. The Form I-290B, Notice of Appeal, was received by the director on August 16, 2007, 35 days after the decision was issued. Accordingly, the appeal was untimely filed. Neither the Immigration and Nationality Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. As the appeal was untimely filed, the appeal must be rejected.

Even if the appeal were timely filed, it would be rejected for lack of standing. The Form I-360 was signed by [REDACTED] the petitioner, who seeks classification pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), as the unmarried son of an officer or employee of an international organization. The appeal, however, was filed by the petitioner's mother, [REDACTED] not by the petitioner or an authorized representative of the petitioner. We note that although the record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, submitted by [REDACTED] indicating his appearance of the petitioner's mother, the record does not contain a Form G-28 signed by the petitioner. Accordingly, the petitioner is considered to be unrepresented.

8 C.F.R. § 103.3(a)(1)(iii)(B) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to United States Citizenship and Immigration Services [USCIS]) means the person or entity with legal standing in a proceeding. 8 C.F.R. § 103.3(a)(2)(v)(A)(I) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee USCIS has accepted will not be refunded. Here, the appeal was not filed by the petitioner, nor by any licensed attorney or accredited representative of the petitioner. Therefore, were the appeal timely filed, it would be rejected for lack of standing.

ORDER: The appeal is rejected.