



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

C10

DATE: **OCT 05 2012**

Office: VERMONT SERVICE CENTER

File: [REDACTED]

IN RE: Petitioner [REDACTED]

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

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,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (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. The petition will remain denied.

The petitioner seeks immigrant classification under section 204(a)(1)(A)(vii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(vii), as an alien parent battered or subjected to extreme cruelty by his United States citizen son.

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 submit 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 submission, but the date of actual receipt with the required fee. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on October 19, 2011. It is noted that the director properly gave notice to the petitioner that he had 33 days to file the appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although the petitioner dated the Notice of Appeal (Form I-290B) November 29, 2011, it was not received by the service center until December 6, 2011, or 48 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, 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, in this case the Director of the Vermont Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director determined that the late appeal did not meet the requirements of a motion and forwarded the matter to the AAO.

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

**ORDER:** The appeal is rejected. The petition remains denied.