



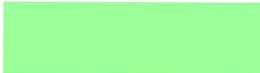
U.S. Citizenship
and Immigration
Services

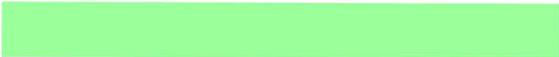
(b)(6)



Date: **AUG 30 2013**

Office: NEWARK, NJ

FILE: 

IN RE: Self-Petitioner: 

PETITION: Petition for Special Immigrant Juvenile Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(J) of the Act, 8 U.S.C. § 1101(a)(27)(J)

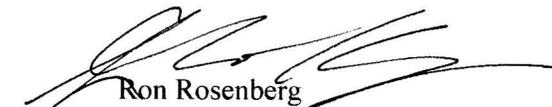
ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Newark, New Jersey Field Office Director (“the director”), denied the special immigrant visa petition (Form I-360), and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The petitioner is a 19-year-old native and citizen of Guatemala who seeks classification as a special immigrant juvenile (SIJ) pursuant to sections 1101(a)(27)(J) and 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(27)(J), 1153(b)(4).

An appeal must be filed within 30 days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). An appeal which is unsigned and not executed in accordance with the form instructions will be rejected. 8 C.F.R. § 103.2(a)(7)(i). A rejected Form I-290B, Notice of Appeal, will not retain a filing date. 8 C.F.R. § 103.2(a)(7)(iii).

In this case, the director denied the petition on October 17, 2012. Counsel initially submitted a Form I-290B on November 19, 2012, which was rejected as improperly filed. U.S. Citizenship and Immigration Services (USCIS) did not receive the properly filed appeal until February 26, 2013, which was 132 days after the director’s decision was issued.

Neither the Act nor the pertinent regulations grant the AAO or the director authority to extend the 33-day time limit for filing an appeal. As the appeal was untimely filed, the appeal must be rejected. Nevertheless, 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 Newark, New Jersey Field Office Director. *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.