



U.S. Citizenship
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FILE:

OFFICE: SAINT LOUIS

Date:

APR 28 2009

IN RE:

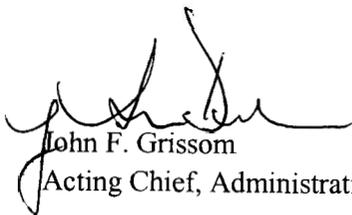
PETITION:

Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

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.



John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Saint Louis, Missouri Field Office, denied the orphan petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The petitioner seeks classification of the beneficiary as an orphan and immediate relative pursuant to section 101(b)(1)(F) of the Immigration and Nationality Act (“the Act”), 8 U.S.C. § 1101(b)(1)(F). The director denied the petition because the record indicated that the beneficiary had not been abandoned by her natural parents and consequently did not meet the definition of an orphan at section 101(b)(1)(F)(i) of the Act.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) prescribes that an appeal must be filed within 30 days of the adverse decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The director denied the petition on December 23, 2008. The director’s decision notified the petitioner that he could appeal the decision within 30 days from the date of the decision, or 33 days if the decision was received by mail. Counsel filed the appeal on January 28, 2009, which was 36 days after the date of the director’s decision. As the appeal was untimely filed, it must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(i).

ORDER: The appeal is rejected.