

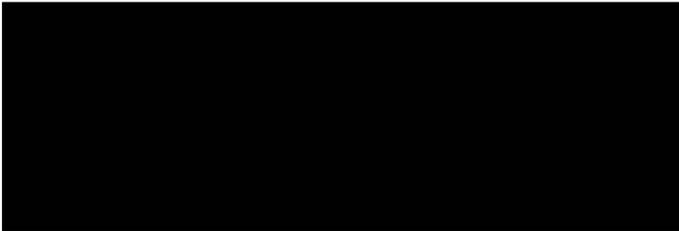
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

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MAY 01 2009

File: LIN 09 009 53813 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Beneficiary: 

Petition: Immigrant Petition for Amerasian Widow(er) or Special Immigrant Pursuant to Section 101(a)(27) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(27)

IN 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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

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.

Although the director's decision advised the petitioner's counsel that an appeal was available, that information was in error. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra* ; 8 C.F.R. § 103.3(a)(iv).

The AAO does not have the express authority to adjudicate an appeal whose subject matter is the denial of a Form I-360 petition for Amerasian widow(er) or special immigrant. As the AAO lacks jurisdiction in the present matter, the appeal must be rejected.

Additionally, even if the AAO had the jurisdiction to review the current appeal, it would have to reject the appeal due to its untimely filing.

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 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. § 103.5a(b).

In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a U.S. Citizenship and Immigration Services (USCIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the director issued the decision on January 8, 2008. The appeal was received at the designated service center on February 3, 2009, nearly 13 months after the decision was issued. Therefore, the appeal was untimely filed.

Accordingly, the appeal is hereby rejected on two grounds—the AAO's lack of jurisdiction and the untimely filing of the appeal.

ORDER: The appeal is rejected as untimely filed.