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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

FILE: [redacted] Office: Baltimore Date: AUG 15 2003

IN RE: Petitioner:
Beneficiary: [redacted]

APPLICATION: Petition for Widow or Widower of a United States Citizen Pursuant to Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(ii)

ON BEHALF OF PETITIONER:

PUBLIC COPY

[redacted]

INSTRUCTIONS:

This is the decision 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected, and the case will be remanded to the director for further action.

The petitioner is a native and citizen of Sri Lanka who is seeking classification as a special immigrant, pursuant to section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(ii), as the widow of a United States citizen.

The district director determined that the petitioner was not married to her U.S. citizen spouse for two years at the time of his death. The district director, therefore, denied the petition.

The petitioner appealed the decision of the district director. An appeal based on the denial under section 204(a)(1)(A)(ii), however, is not within the jurisdiction of the AAO. Such an appeal is within the jurisdiction of the Board of Immigration Appeals. *See* 8 C.F.R. § 204.2(b)(3). Therefore, based on the erroneous order of the district director, the case will be remanded so that the district director may enter a new decision explaining the petitioner's appeal rights.

ORDER: The appeal is rejected. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.