

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-3049

Efrain Angel Garcia,	*	
	*	
Petitioner,	*	Petition for Review of an
	*	Order of the Immigration
v.	*	and Naturalization Service.
	*	
Immigration and Naturalization	*	[UNPUBLISHED]
Service,	*	
	*	
Respondent.	*	

Submitted: March 19, 2001
Filed: March 19, 2001

Before RICHARD S. ARNOLD, FAGG, and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

PER CURIAM.

Efrain Angel Garcia petitions for review of a final order of the Board of Immigration Appeals (BIA) dismissing as untimely his appeal from the Immigration Judge's (IJ's) denial of his applications for asylum, suspension, and withholding of deportation. We dismiss the petition for lack of jurisdiction.

Garcia's appeal of the IJ's February 3, 1998 decision was due on or before March 5, thirty days after the decision. See 8 C.F.R. § 3.38(b) (1997). Garcia submitted his

notice of appeal to the BIA on March 2, but the notice was rejected due to filing defects. The BIA's rejection notice indicated Garcia had until March 20 to file a corrected notice of appeal but he did not file it until March 25, well after both the thirty-day period provided in the regulations and the rejection notice's fifteen-day extension. The notice of appeal was thus untimely.

We also reject any argument that the untimeliness should be excused under the "unique circumstances" doctrine. See Atiqullah v. INS, 39 F.3d 896, 898 (8th Cir. 1994) (per curiam) (generally time limit for filing notice of appeal to BIA is mandatory and jurisdictional; in unique circumstances if party is misled by words or conduct of court, appellate tribunal may have jurisdiction to hear otherwise untimely appeal). As the BIA lacked jurisdiction to hear Garcia's appeal, we may not review the merits of his petition. See Margalli-Olvera v. INS, 43 F.3d 345, 350 (8th Cir. 1994).

Accordingly, we dismiss the petition for review.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.