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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAR 04 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

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.

for Mari Johnson
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the employment-based immigrant visa petition. On further review of the record, the director determined that the petitioner was not eligible for the visa preference classification. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition and his reasons therefore, and subsequently revoked the approval of the petition on June 18, 2003. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

The regulation at 8 C.F.R. § 205.2(d) states, in pertinent part:

> The petitioner or self-petitioner may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation.

The regulation at 8 C.F.R. § 103.2(a)(2) states:

> Signature. An applicant o

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B) states:

> *Untimely appeal – (1) Rejection without refund of filing fee.* An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The Form I-290B, Notice of Appeal to the Administrative Appeals Unit, filed on July 3, 2003, was rejected and returned to the petitioner for failure of the petitioner or his counsel to sign the form as required by the regulation at 8 C.F.R. § 103.2(a)(2). In response, counsel submitted a letter asserting that the failure to sign the notice of appeal was an oversight and requesting that the appeal be considered. Counsel pointed out that the Form G-28, Notice of Appearance as Attorney or Representative, was signed; however, a signature on the Form G-28 cannot substitute for the failure of the petitioner or his counsel to sign the Form I-290B. A properly signed Form I-290B was received by the service center on July 14, 2003, 28 days after the date of the notice of revocation.

As the petitioner failed to timely appeal the director's notice of revocation of his visa preference classification, the appeal will be rejected.

ORDER: The appeal is rejected.