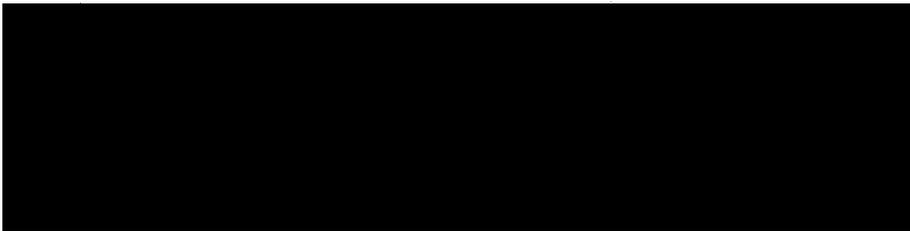




U.S. Citizenship
and Immigration
Services

B2



FILE:



Office: TEXAS SERVICE CENTER

Date:

SEP 07 2004

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON 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.

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The employment based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely and improperly filed.

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 complete appeal within 30 days of after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states that “‘affected party’ (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.” If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.5a(b). 8 C.F.R. § 1.1(h) explains that when the last day of a period falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

The record indicates that the director issued the decision on March 3, 2004. The appeal was received by Citizenship and Immigration Services on April 6, 2004, or 34 days after the decision was issued. Therefore, the appeal was untimely filed. It is also noted that the appeal was filed not by the petitioner, but, rather, by an attorney who represents the beneficiary. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) states that “[a]n appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.”

As the appeal was untimely and improperly filed, it must be rejected.

ORDER: The appeal is rejected.