

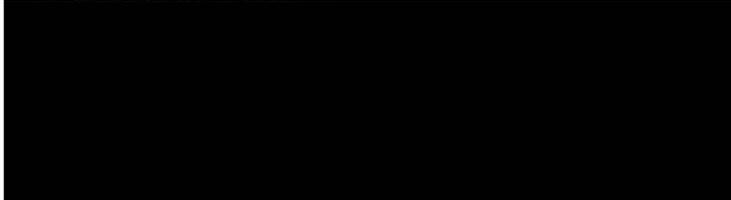


U.S. Citizenship
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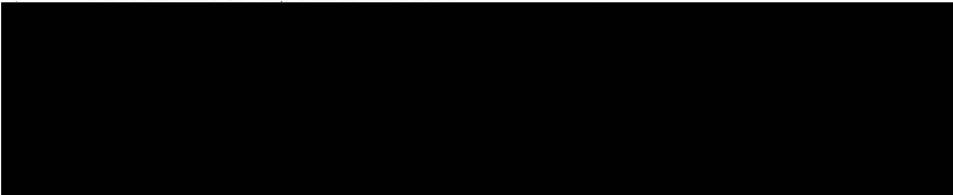
FILE: WAC 03 124 53000 Office: CALIFORNIA SERVICE CENTER Date: FEB 23 2006

IN RE: Petitioner:
Beneficiary



PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



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

DISCUSSION: The Director, California Service Center, denied the employment-based visa petition. In a decision dated August 8, 2005, the Administrative Appeals Office (AAO) dismissed the petitioner's appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be rejected as untimely filed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the petitioner must file the motion within thirty 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). The failure to file before this period expires may be excused at the discretion of the AAO where it is demonstrated that the delay was reasonable and beyond the control of the petitioner. 8 C.F.R. § 103.5(a)(1)(i).

The record indicates that the AAO issued its decision on August 8, 2005. According to the date stamp on the motion to reopen or reconsider filed by the petitioner's counsel, it was received by Citizenship and Immigration Services (CIS) on September 16, 2005 or 39 days after the decision was issued. On motion, the petitioner has not requested that the failure to file the motion within the 30-day time period be excused.

As a matter of discretion, the applicant's failure to file the motion within the period allowed will not be excused as either reasonable or beyond the control of the applicant. Accordingly, the motion will be rejected as untimely filed.

As the motion was untimely filed, the motion must be rejected.

ORDER: The motion is rejected as untimely filed.