

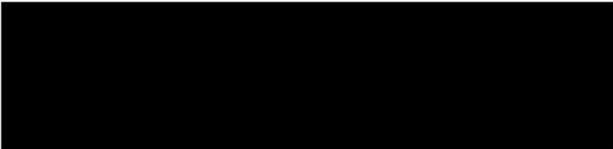


U.S. Citizenship
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Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 08 2006
WAC 98 137 50994

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, approved the petition for an immigrant visa. Following an investigation performed in connection with the beneficiary's I-485 Application to Adjust Status, the director issued a Notice of Intent to Revoke and properly provided the petitioner thirty days within which to rebut the proposed revocation. The director subsequently revoked approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal of a decision to revoke approval of an immigrant petition, the regulation at 8 C.F.R. § 205.2(d) provides that the affected party must file an appeal within 15 days after service of notice of revocation. If the decision was mailed, the appeal must be filed within 18 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on December 20, 2005. It is noted that the director properly gave notice to the petitioner that it had 18 days to file the appeal. Although counsel dated the appeal January 6, 2006, it was received by Citizenship and Immigration Services (CIS) on January 13, 2006, or 24 days after the decision was issued.¹ Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

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

ORDER: The appeal is rejected.

¹ The record reflects that CIS received an incomplete Form I-290B, Notice of Appeals to the Administrative Appeals Office, from the petitioner's counsel on January 9, 2006. CIS returned the Form I-290B to the petitioner's counsel with instructions that the appeal could not be accepted because it had not been properly signed.