



U.S. Citizenship  
and Immigration  
Services

B6

[Redacted]

FILE:

[Redacted]

Office: TEXAS SERVICE CENTER

Date:

2012 08 14

IN RE:

Petitioner:

[Redacted]

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

Administrative Appeals Office  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

**DISCUSSION:** The employment based immigrant visa petition was denied by the Director, Texas Service Center. The petitioner filed a motion to reconsider. The motion was denied by the director. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner sought to classify the beneficiary as an employment based immigrant pursuant to section 203(b)(3) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3), as a skilled worker or professional. The petitioner is an international services transaction services company. It sought to employ the beneficiary permanently in the United States as a programmer/analyst. As required by statute, the petition was accompanied by an individual labor certification approved by the Department of Labor.

The record indicates that the director denied the petition on February 26, 2003. The petitioner, through counsel, filed a motion to reconsider. The director denied the motion to reconsider on April 23, 2003.

The petitioner filed an appeal from the director's denial of its motion to reconsider. The regulation at 8 C.F.R. § 103.3(a)(2) provides that the affected party must file the complete appeal within 30 days after service of the decision. The regulation at 8 C.F.R. § 103.5(7) provides that this deadline is also applicable to decisions on motions. When computing a period of time for taking any action, including taking an appeal from a decision, the term *day* includes Saturdays, Sundays, and legal holidays. 8 C.F.R. § 1.1(h). Three additional days are provided if the decision was mailed. In this case, as advised by the director's decision, the petitioner's appeal was due 33 days, or by Monday, May 26, 2003. The record shows that it was not received until Tuesday, May 27th, 2003.

Accordingly, the petitioner's appeal is rejected as untimely filed.

**ORDER:** The petitioner's appeal is rejected.