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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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APR 01 2005



FILE: [REDACTED]
WAC-03-037-53131

Office: CALIFORNIA SERVICE CENTER Date:

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

PETITION: 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:



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 immigrant visa petition was denied by the Director, California Service Center. An appeal of that decision was rejected by the director as untimely. The matter is now before the Administrative Appeals Office (AAO) on appeal of the director's rejection notice. The appeal will be rejected for lack of jurisdiction.

The AAO's jurisdiction is limited to the authority specifically granted to it by the Secretary of the United States Department of Homeland Security. *See* DHS Delegation No. 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004). Pursuant to that delegation, the AAO's jurisdiction is limited to those matters described at 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv).

The AAO has jurisdiction over appeals of decisions on employment based petitions, under 8 C.F.R. § 103.1(f)(3)(E)(iii)(B) (as in effect on February 28, 2003). Therefore the director's decision on the merits of the petition, which was issued on June 16, 2003, was a decision over which the AAO had appellate jurisdiction. Counsel initially submitted a notice of appeal on July 14, 2003, a date which was within the thirty three day period allowed by the regulations at 8 C.F.R. § 103.3(a)(2)(i) and 8 C.F.R. § 103.5a(b), for decisions which are served by mail. The notice of appeal as initially submitted, however, lacked a signature and a filing fee. Accordingly, the director rejected that notice of appeal as improperly filed on July 15, 2005, and returned it to the petitioner.

The thirty three day period for filing the appeal expired on July 19, 2005. That day was a Saturday, therefore by operation of the regulation at 8 C.F.R. § 1.1(h) the deadline for filing the appeal was extended until Monday, July 21, 2005.

Counsel resubmitted the notice of appeal with signature and with the filing fee on July 23, 2005.

In a Notice of Rejected Appeal dated October 8, 2003, the director rejected the appeal as untimely. The director also found that the appeal did not meet the requirements of a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(3). Therefore the director did not treat the appeal as a motion.

The instant notice of appeal was received by CIS on October 28, 2003. It is an appeal of the director's Rejection Notice dated October 8, 2003, a notice over which the AAO has no appellate jurisdiction. *See* 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003). Therefore the notice of appeal must be rejected for lack of jurisdiction.

ORDER: The appeal is rejected.