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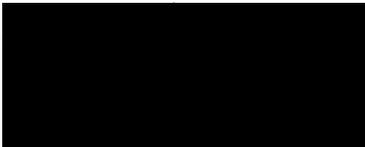
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FILE: EAC 02 036 52062 Office: VERMONT SERVICE CENTER Date: AUG 11 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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:



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, Vermont Service Center, denied the preference visa. The Administrative Appeals Office (AAO) dismissed a subsequent appeal, affirming the director's decision. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen/reconsider. The motion will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file a motion within 30 days of the issuance of the decision that the motion seeks to have reopened or reconsidered, except that the failure to timely file may be excused where it is demonstrated that the delay was reasonable and beyond the control of the petitioner.

The record indicates that the AAO issued its decision on December 11, 2003. The director properly gave notice to the petitioner that it had 30 days to file the appeal. Citizenship and Immigration Services (CIS) received the instant motion on January 21, 2004, 41 days after the decision was issued. Counsel offered no explanation for the late filing.

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

**ORDER:** The appeal is rejected.