



U.S. Citizenship
and Immigration
Services

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

PUBLIC COPY



BC

FILE: WAC 02 092 51605 Office: CALIFORNIA SERVICE CENTER

Date: JUL 06 20

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:

SELF-REPRESENTED

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 immigrant visa petition. The Administrative Appeals Office (AAO) affirmed the director's decision and dismissed a subsequent appeal. The matter is now again before the AAO on a motion to reopen or reconsider. The motion to reopen or reconsider will be rejected as untimely filed.

An affected party has 30 days from the date of an adverse decision to file a motion to reopen or reconsider a proceeding before Citizenship and Immigration Services (CIS). 8 C.F.R. § 103.5(a)(1)(i). If the adverse decision was served by mail, an additional three days is added to the proscribed period. 8 C.F.R. § 103.5(a)(b). Any motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The petitioner's motion does not meet applicable requirements because it was not timely filed. The record indicates that the director of the AAO issued the decision on December 17, 2003. The director properly gave notice to the petitioner that it had 30 days to file the appeal. The petitioner dated the motion on February 11, 2004, and, Citizenship and Immigration Services (CIS) received the appeal on February 19, 2004, 64 days after the decision was issued. The petitioner does not present any evidence for CIS to consider regarding the delay in timely filing the motion. 8 C.F.R. § 103.5(a)(1)(i). Accordingly, the motion will be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

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

ORDER: The motion is dismissed.