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U.S. Citizenship
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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

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IN RE:

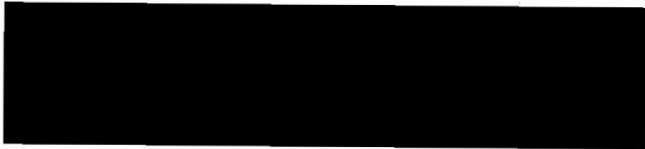
Petitioner:



Beneficiary:

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

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 Administrative Appeals Office (AAO) dismissed the appeal of the preference visa petition. The matter is now before the AAO on a motion to reconsider. The motion to reconsider will be rejected.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion to reopen within 30 days of service of the adverse decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued its dismissal of the appeal on October 21, 2005. On May 25, 2006, or seven months after the decision was issued, the motion to reconsider was received by the Nebraska Service Center. Accordingly, the motion was untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that failure to file within the 30 days of the decision that the motion seeks to reopen may be excused where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. In this instance, counsel failed to provide a reasonable excuse as to why he did not properly file the motion within 30 days of the mailing of the decision.

As the motion was untimely filed, it must be rejected.

ORDER: The motion is rejected as untimely filed.