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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted] Office: California Service Center

Date: JUL 16 2002

IN RE: Petitioner: [Redacted]

Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5)

Public Copy

IN BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center. The Associate Commissioner, Examinations, dismissed a subsequent appeal. The matter is now before the Associate Commissioner on a motion to reconsider. The motion will be dismissed.

The motion is untimely. 8 C.F.R. 103.5(a)(1)(i), states that a motion must be filed within 30 days of the decision that the motion seeks to reopen or reconsider. 8 C.F.R. 103.a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Here, the Administrative Appeals Office (AAO), on behalf of the Association Commissioner, mailed its decision to the petitioner on June 16, 1999. The petitioner dated his motion January 12, 2001, nearly 19 months after the AAO's decision. The decision was properly received by the Service Center on February 9, 2001.

The petitioner acknowledges that the motion is not being filed within the 30-day time period prescribed, but asserts that when he received the AAO's decision "I was so busy expanding my business that I missed the dateline." 8 C.F.R. 103.5(a)(1)(i) provides that a late motion may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. Even considering the petitioner's explanation, a delay of a year and a half is not reasonable. It is noted that the petitioner's motion consists solely of a one and a half page personal statement. Finally, the petitioner has also failed to establish that the lengthy delay was beyond his control.

ORDER: The motion is dismissed.