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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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B7

[REDACTED]

FILE:

EAC 98 021 50823

Office: VERMONT SERVICE CENTER

Date:

**OCT 15 2007**

IN RE:

Petitioner: [REDACTED]

PETITION:

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

ON BEHALF OF PETITIONER:

[REDACTED]

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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, initially approved the preference visa petition. Subsequently, the director issued a notice of intent to revoke the approval of the petition (NOIR). In a Notice of Revocation (NOR), the director ultimately revoked the approval of the petition (Form I-526). The Administrative Appeals Office (AAO) rejected the subsequent appeal as untimely. The matter is now before us on motion. The motion will now be dismissed.

Our remand order, which included an order for the director to certify any new adverse decision to this office for review, is not a final adverse decision subject to a motion to reopen. As our order was not a final adverse decision and the matter is no longer within our jurisdiction, the motion must be dismissed. *See* 8 C.F.R. § 103.5(a)(1)(ii), (a)(1)(iii)(E), (a)(4).

The AAO has been holding this case in abeyance for promulgation of a regulation implementing the 21<sup>st</sup> Century Department of Justice Appropriations Authorization Act, Pub. L. [REDACTED] (2002), which has yet to be published. As we have no jurisdiction in this matter, however, there is no need to continue holding this case. We note, however, that our dismissal of the motion includes no finding as to whether the petitioner is an eligible alien as defined at section 11032(b) of the public law. Rather, that determination falls under the jurisdiction of the director.

**ORDER:** The motion is dismissed.