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C/

DEC 07 2004

FILE:

WAC 01 151 52993

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:

Beneficiary:

PETITION:

Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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 employment-based immigrant visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, 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 was beyond the control of the applicant or petitioner. 8 C.F.R. § 103.5(a)(1)(i). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The AAO issued its appellate decision on June 27, 2003. The director received the petitioner's motion on August 20, 2003, 55 days later. Counsel, on motion, does not explain how this delay was beyond the petitioner's control. Counsel does not even acknowledge the lateness of the motion. We note that counsel refers to "additional new facts" to be presented on motion, but most of the exhibits submitted on motion are copies of documents that already existed well before the AAO issued its decision.

As the motion was untimely filed, with no showing that the delay was reasonable or beyond the control of the petitioner, the motion must be dismissed.

ORDER: The motion is dismissed.