



U.S. Citizenship
and Immigration
Services

01



File: EAC 01 230 50497 Office: VERMONT SERVICE CENTER

Date: JUL 9 2004

IN RE: Petitioner:
Beneficiary:



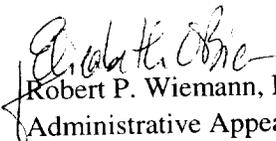
Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

IN 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

Identifying information related to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed, the previous decision of the AAO will be affirmed and the petition will be denied.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states, in pertinent part:

Any motion to reconsider an action by the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider. 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 the 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.

The record reflects that the AAO issued its decision on July 17, 2003. The instant motion was filed on September 3, 2003, 48 days after the AAO's decision. As such, the motion was untimely filed.

Further, the regulation at 8 C.F.R. § 103.5(a)(2) provides:

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

Finally, the regulation at 8 C.F.R. § 103.5(a)(3) provides:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence in the record at the time of the initial decision.

In support of the motion the petitioner failed to provide any new facts, documentary evidence, or precedent decisions to establish that the AAO's decision was based on incorrect application of law or policy. Further, the petitioner failed to make any claim that the AAO's decision was incorrect based upon the evidence in the record.

As the petitioner has failed to meet the requirements of a motion to reopen or reconsider, the motion is also denied for this additional reason.

ORDER: The motion is dismissed. The AAO's decision of July 17, 2003 is affirmed. The petition is denied.