



U.S. Citizenship  
and Immigration  
Services

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File: EAC 01 002 52098 Office: VERMONT SERVICE CENTER Date: JUL 12 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

**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 reopen. 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 29, 2003. The instant motion was filed on September 8, 2003. As cited in the regulation above, in order to properly file a motion, the affected party must file the motion within 30 days after service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

In this instance, the motion was received by Citizenship and Immigration Services (CIS) 41 days after the AAO's decision was issued. Accordingly, the motion was not timely filed.

**ORDER:** The motion is dismissed. The previous decision of the AAO will be affirmed and the petition will be denied.