

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529

PUBLIC COPY

CA



U.S. Citizenship and Immigration Services



FILE: [Redacted]

Office: TEXAS SERVICE CENTER Date: SEP 07 2004

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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.

*Mari Johnson*

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, initially approved the employment-based immigrant visa petition. Subsequently, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the immigrant visa petition, and the reasons therefore, and subsequently revoked the approval of the petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B) states that an appeal which is not filed within the time allowed must be rejected as improperly filed.

The regulation at 8 C.F.R. 205.2(d) indicates that revocations of approvals must be appealed within 15 days after the service of the notice of revocation. The notice of revocation erroneously stated that the petitioner could file an appeal within 33 days. Nevertheless, the director's error cannot and does not supersede the pertinent regulations.

The revocation notice was issued on March 20, 2003. The appeal was not even postmarked until April 28, 2003, 39 days after the decision was rendered. Thus, the appeal was not even submitted until well after the director's already erroneous deadline (and the appeal is considered filed upon receipt, not upon the postmark date). Even then, the appeal was, originally, not properly submitted. It was not duly filed until May 8, 2003, 49 days after the date of issuance.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.