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U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 009 53707 Office: VERMONT SERVICE CENTER Date: MAR 20 2006

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

PETITION: 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 Acting Director, Vermont Service Center, denied the nonimmigrant visa petition, in part, based on the petitioner's failure to respond to the director's request for additional evidence. On a subsequent service motion to reopen, the director affirmed his decision to deny the petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal based on the petitioner's failure to overcome all of the grounds for dismissal addressed in the director's decision. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The motion is untimely. Under the provisions of 8 C.F.R. § 103.5(a)(1)(i), a motion to reopen must be filed within 30 days of the decision for which the motion seeks reconsideration. The regulation at 8 C.F.R. § 103.5a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. The AAO issued its decision on May 25, 2005. The petitioner's motion to reconsider was returned by the service center for the required signature. The petitioner's properly signed motion to reconsider was received by the service center on July 20, 2005, 56 days after the AAO issued its decision. The motion was therefore filed untimely.

The regulation at 8 C.F.R. § 103.5(a) provides that the agency may, in its discretion, accept a motion beyond this time frame if the petitioner demonstrates that the delay was reasonable and beyond his or her control. The petitioner provides no evidence that the delay in filing its motion to reconsider was reasonable and beyond its control.

ORDER: The motion is dismissed.