

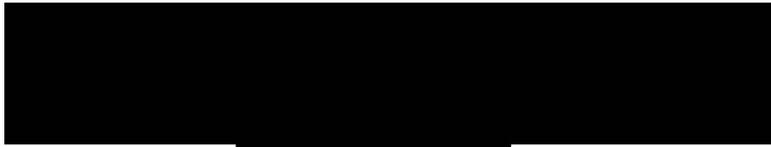
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FILE: [Redacted]  
WAC 06 271 53805

Office: CALIFORNIA SERVICE CENTER

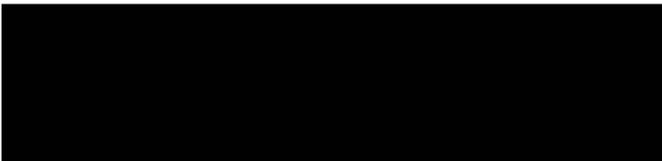
Date: DEC 12 2008

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.

*JF Grissom*  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on December 13, 2007. It is noted that the director properly gave notice to the petitioner that it had 33 days to file the appeal. Although counsel dated the appeal January 15, 2008, it was received by the director on January 16, 2008, 34 days after the decision was issued. Accordingly, the appeal was untimely filed. The director erroneously annotated the appeal as timely and forwarded the matter to the AAO. Neither the Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal.

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

**ORDER:** The appeal is rejected.