

identifying data deleted to
prevent disclosure of warrant
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

~~PHOTOCOPY~~



C

JUN 13 2003

FILE: 
EAC 01 178 50108

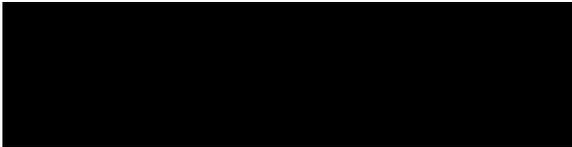
Office: VERMONT SERVICE CENTER

Date:

IN RE: Petitioner: 
Beneficiary: 

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 employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. A motion to reopen was dismissed as untimely filed. The matter is now before the AAO on a second motion to reopen. The motion will be dismissed as untimely filed.

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 that the motion seeks to reopen. 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 August 19, 2004. The petitioner's motion to reopen was initially returned by the service center on September 27, 2004 because the petitioner failed to attach the proper fee. The motion with the proper fee attached was filed with the service center on October 12, 2004, 54 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 his motion to reopen was reasonable and beyond its control.

ORDER: The motion is dismissed.