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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

C1

FILE: [REDACTED]
SRC 01 192 54883

Office: TEXAS SERVICE CENTER Date: MAR 17 2005

IN RE: Petitioner:
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:

[REDACTED]

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.

Maui Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center. The petitioner filed a subsequent appeal. The Administrative Appeals Office (AAO) determined that the appeal was not filed in a timely manner. The AAO rejected the appeal without rendering a decision. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be rejected.

The director denied the petition on December 11, 2003. On January 14, 2004, counsel for the petitioner filed an appeal seeking review of the director's decision. After reviewing the record, the AAO rejected the appeal as the appeal had not been filed in a timely manner. Any appeal that is not filed within the time allowed must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(B)(I).

The petitioner has now filed a motion seeking to reopen the appeal that was rejected as untimely filed.

As the appeal was rejected by the AAO, there is no decision on the part of the AAO that may be reopened in this proceeding. According to 8 C.F.R. § 103.5(a)(1)(ii), jurisdiction over a motion resides in the official who made the latest decision in the proceeding. The AAO did not enter a decision on this matter. Because the disputed decision was rendered by the director, the AAO has no jurisdiction over this motion and the motion must be rejected.

ORDER: The motion is rejected.