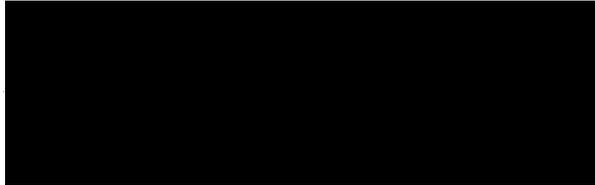




U.S. Citizenship
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Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: SEP 28 2005
SRC 01 113 54128

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:

SELF-REPRESENTED

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

 Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

First, 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 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 September 12, 2003. The motion to reopen was initially filed with the Vermont Service Center. The regulation at 8 C.F.R. § 103.5(a)(1)(iii) provides that a motion must be submitted to the office maintaining the record upon which the unfavorable decision was made. In its decision of September 12, 2003, the AAO informed the petitioner that the record had been returned to the Texas Service Center, the office that originally decided its case. The motion to reopen was received by the Texas Service Center on November 4, 2003, 53 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 submitted no evidence that the delay in filing the motion to reopen was reasonable and beyond its control.

Second, even if the motion were not being dismissed as untimely, the motion was not filed by an affected party. The regulation at 8 C.F.R. § 103.5(a)(1)(iii) states, in pertinent part:

Filing Requirements—A motion shall be submitted . . .

(A) In writing and signed by the affected party or the attorney or representative of record, if any.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The motion is signed by [REDACTED], a senior paralegal with the law firm of Dimas & Associates. The record does not contain a Form G-28, Notice of Entry of Appearance as Attorney or Representative, authorizing Mr. [REDACTED] or the law firm of Dimas & Associates to act on behalf of the petitioner.

As only an affected party, a person or entity with legal standing, may file a motion, the motion has not been filed by any entity with legal standing in the proceeding. Therefore, the motion has not been properly filed and must be dismissed.

ORDER: The motion is dismissed.