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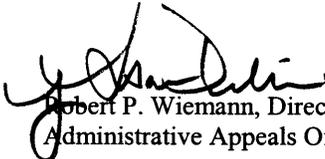
IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 nonimmigrant visa petition was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on motion to reopen and reconsider. The motion to reopen and reconsider will be dismissed and the AAO's previous decision will be affirmed.

The petitioner is described as an academic placement office. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its general manager. The director determined that the petitioner failed to establish that the beneficiary has been or would be employed in a primarily managerial or executive capacity.

On appeal, counsel asserts that the petitioner has submitted sufficient evidence to establish that the beneficiary has been and will continue to perform duties that are primarily managerial or executive in nature. Counsel also asserts that the director's decision was incorrect both in fact and in law.

An affected party has 30 days from the date of an adverse decision to file a motion to reopen or reconsider a proceeding before Citizenship and Immigration Services (CIS). 8 C.F.R. § 103.5(a)(1)(i). If the adverse decision was served by mail, an additional three-day period is added to the 30-day period. 8 C.F.R. § 103.5a(b). Any motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5a(4).

The petitioner's motion does not meet applicable requirements because it was not timely filed. The Administrative Appeals Office mailed its decision to the petitioner on August 5, 2002. Citizenship and Immigration Services (CIS) received the petitioner's motion 45 days later on September 19, 2002. Neither counsel nor the petitioner presents any evidence for CIS to consider regarding the delay in timely filing the motion. 8 C.F.R. § 103.5(a)(1)(i). Accordingly, the motion will be dismissed.

ORDER: The motion is rejected as untimely.