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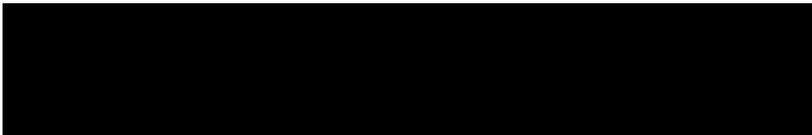
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**U.S. Citizenship
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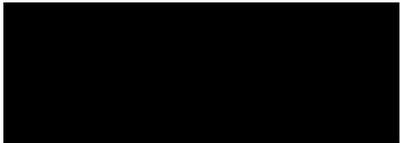


FILE: EAC 02 172 51822 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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 Director, Vermont Service Center, denied the nonimmigrant 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 regulation at 8 C.F.R. § 103.2(a)(7) further states that an application or petition received in Citizenship and Immigration Services (CIS) shall be stamped to show the time and date of receipt and, shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached.

The record indicates that the director issued the decision on August 1, 2002. It is noted that the director properly gave notice to the petitioner that it had 33 days to file the appeal. Although CIS received the appeal on August 28, 2002, the appeal did not include the correct required filing fee of \$110.00. Pursuant to 8 C.F.R. §103.2(a)(7), the appeal was not properly filed. Counsel filed a subsequent appeal, which was received by CIS on September 11, 2002, or 41 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

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

ORDER: The appeal is rejected.