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



U.S. Citizenship
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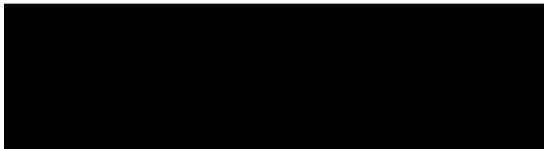
File: LIN 02 141 51314 Office: NEBRASKA SERVICE CENTER

Date: APR 01 2005

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

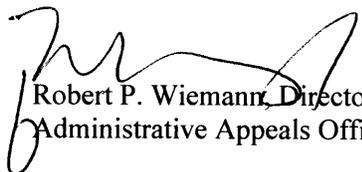
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner filed a subsequent appeal. The director determined that the appeal was not filed in a timely manner. The director rejected the appeal without rendering a decision. The matter is now before the AAO on a motion to reconsider. The motion will be rejected.

The petitioner seeks to classify the beneficiary as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L).

The director denied the petition on October 3, 2002. On November 29, 2002, counsel for the petitioner filed an appeal seeking review of the director's decision. After reviewing the record, the director 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)(1). The director also determined that the untimely appeal did not meet the requirements of a motion to reopen or a motion to reconsider. *See* 8 C.F.R. § 103.3(a)(1)(v)(B)(2); *see also* 8 C.F.R. § 103.5. The director found that "the appeal neither provides new evidence nor provides precedent decisions to consider."

The petitioner has now filed a motion seeking to reopen the appeal that was rejected as untimely filed. Counsel asserts that "[d]ue to previous counsel's brief being submitted to the Washington, D.C. office, your service Center was not initially aware of the supporting statement and evidence." However, as the appeal was rejected by the director, 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.