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File: SRC 00 215 51731 Office: TEXAS SERVICE CENTER Date: SEP 06 2006

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)

IN 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director of the Texas Service Center denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2) requires an affected party to file the complete appeal within 30 days after service of the decision or, in accordance with 8 C.F.R. § 103.5a(b), within 33 days if the decision was served by mail. The record indicates that the decision of the director was mailed to counsel of record for the petitioner on February 14, 2001. Counsel for the petitioner filed an appeal with the Texas Service Center on March 27, 2001, 41 days after the decision was mailed. Thus, the appeal was not timely filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

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 as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), 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.