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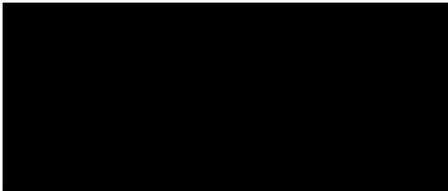
U.S. Department of Homeland Security  
20 Mass, Rm. N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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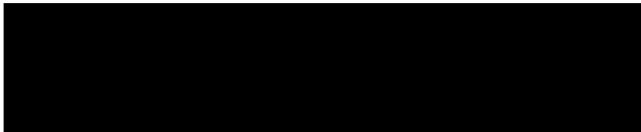


FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JUN 25 2007  
EAC 05 141 52683

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the  
Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

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*  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center initially approved the immigrant visa petition. On June 1, 2006, the director notified the petitioner of his intent to revoke approval of the petition, and subsequently revoked approval of the petition on August 24, 2006. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

An appeal of a decision to revoke the approval of a petition must be filed within 15 days after service of the notice of revocation. 8 C.F.R. § 205.2(d). If the revocation decision was mailed, the appeal must be filed within 18 days. *See* 8 C.F.R. § 103.5a(b).

In this case, the director issued the revocation decision on August 24, 2006. We note that the director improperly informed the petitioner that he could file an appeal within 33 days of the notice of revocation. The director's incorrect statement of the filing period does not extend the regulatory requirement that the appeal of a revocation be filed within 15 days. Citizenship and Immigration Services (CIS) received the Notice of Appeal on September 25, 2006, which was 32 days after the revocation 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, it must be rejected.

**ORDER:** The appeal is rejected.