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U.S. Citizenship
and Immigration
Services

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FILE: DEN 214F 00212000 Office: DENVER, COLORADO

Date:

IN RE: Petitioner:



FEB 24 2014

PETITION: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(F)(i)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Petition for Approval of School for Attendance by Nonimmigrant Student (Form I-17) was denied by the Interim District Director, Services, Denver, Colorado. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1) as untimely filed.

The Form I-17 reflects that the petitioner in this matter, Bear Valley Bible Institute of Denver, is a private religious school established in 1965. The school declares an enrollment of 29 students with eight instructors. The petitioner seeks approval for attendance by F-1 nonimmigrant academic students. There is no evidence in the record that the school has ever been approved for attendance by nonimmigrant students in the past, except for the petitioner's assertion on appeal that the petitioner had been approved for years.

On July 17, 2003, the director denied the petition, finding that the petitioner failed to respond to a request for additional evidence and failed to meet the requirements of 8 C.F.R. § 214.3(b) and 8 C.F.R. 214.3(e).

The petitioner filed the appeal on November 4, 2003.

An affected party has 30 days from the date of an adverse decision to file an appeal. 8 C.F.R. § 103.3(a)(2)(i). If the adverse decision was served by mail, an additional three days is added to the prescribed period. 8 C.F.R. § 103.5a(b). The record reflects that the interim district director sent his decision of July 17, 2003, to the petitioner at the petitioner's address of record. The appeal was received by Citizenship and Immigration Services (CIS) 110 days later on November 4, 2003. Therefore, the appeal was untimely filed.

An 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). If, however, an untimely appeal meets the requirements of a motion to reopen or reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy; and establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

On appeal, the petitioner states simply that the reason for the appeal is "we have been approved for years, and then reapproved, and then denied. We feel this is unfair and prevents us from continuing to train students from other countries for ministry among Churches of Christ." The petitioner has failed to present any new facts to be proved in a reopened proceeding supported by affidavits or other documentary evidence, or state any reasons for reconsideration supported by pertinent precedent decisions to establish that the director's decision was based on an incorrect application of law or CIS policy, and was incorrect based on the evidence of record at the time of the initial decision.

As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is rejected.