

U.S. Citizenship
and Immigration
Services



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MAY 28 2004



File: LOS 214F 1975 Office: LOS ANGELES, CALIFORNIA Date:

IN RE: Petitioner:



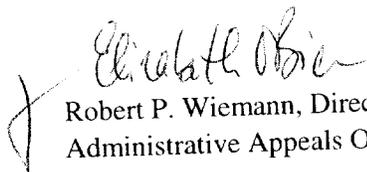
Petition: Petition for Approval of School for Attendance by Nonimmigrant Student under Section 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. §1101(a)(15)(F)(i)

IN 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 District Director, Los Angeles, California. 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 after 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 record indicates that the director issued the decision on July 29, 2003, to the petitioner's address of record. It is noted that the director properly gave notice to the petitioner that it had 33 days to file the appeal. Although the petitioner dated the appeal November 24, 2003, it was not received by Citizenship and Immigration Services (CIS) until December 3, 2003.

The petitioner offers the following statement on appeal:

Due to a change in the mailing address for RL University, the denial letter sent from the Interim District Director on July 29, 2003, was not received. We first learned of the denial approximately 2 weeks ago when we contacted . . . the Los Angeles Office regarding the denial.

The fact that the petitioner failed to notify CIS of its change of address and, therefore, did not receive the denial, does not excuse the requirements for the proper filing of an appeal. The district director appropriately mailed the denial to the address of record. As such 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.