identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

B6

[redacted]

FILE: EAC 02 062 52789 Office: VERMONT SERVICE CENTER Date: NOV 18 2004

IN RE: Petitioner: [redacted]
Beneficiary

PETITION: Immigrant Petition for Other Worker pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3).

ON BEHALF OF PETITIONER:

[redacted]

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 Director, Vermont Service Center denied this preference visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal, affirming the director's decision. The matter is now ostensibly before the AAO on a motion to reopen or reconsider. The motion will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file a motion within 30 days of the issuance of the decision that the motion seeks to have reopened or reconsidered, except that the failure to timely file may be excused where it is demonstrated that the delay was reasonable and beyond the control of the petitioner.

The record indicates that the director issued the decision on June 19, 2003. The director properly gave notice to the petitioner that it had 30 days to file the appeal. Citizenship and Immigration Services (CIS) received the appeal on July 24, 2003, 35 days after the decision was issued.

Counsel claims to have been recently retained, and asks that the appeal's tardiness be therefore excused. Counsel offers no evidence or argument to show that this tardiness was beyond the control of the petitioner.

Accordingly, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.