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**U.S. Citizenship  
and Immigration  
Services**



B4

File:   
WAC 00 257 52971

Office: CALIFORNIA SERVICE CENTER

Date: **MAR 07 2007**

IN RE: Petitioner:  
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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 preference immigrant petition was initially granted. However, upon further review, the Director, California Service Center, determined that the petitioner may be ineligible for the immigration benefit sought and issued a Notice of Intent to Revoke (NOIR) the approval. The approval was subsequently revoked in a separate decision issued by the director. The matter is presently before Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal of a decision revoking a prior approval, 8 C.F.R. § 205.2(d) provides that the affected party must file the appeal within 15 days of service of the notice of revocation.

The record indicates that the director issued the decision on July 15, 2005. The record also shows that the petitioner's Form I-290B appeal was received at the designated service center on August 17, 2005, or 33 days after the decision was issued. While the AAO acknowledges that the director improperly gave notice to the petitioner that it had 30 days to file the appeal, the regulations, not the director, govern the requirements for filing an appeal. The AAO does not have the discretionary authority to consider an appeal that has not been timely filed. Neither the Act nor the pertinent regulations grant the AAO authority to extend the 15-day time limit for filing an appeal of a revoked immigrant petition. *See Matter of Liadov*, 23 I&N Dec. 990 (BIA 2006). As the petitioner in the instant matter failed to comply with the time restriction specifically cited in 8 C.F.R. § 205.2(d), the appeal cannot be deemed timely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1) states that an appeal which is not filed within the time allowed must be rejected as improperly filed. Accordingly, the appeal in the instant case will be rejected as 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.

**ORDER:** The appeal is rejected as untimely filed.