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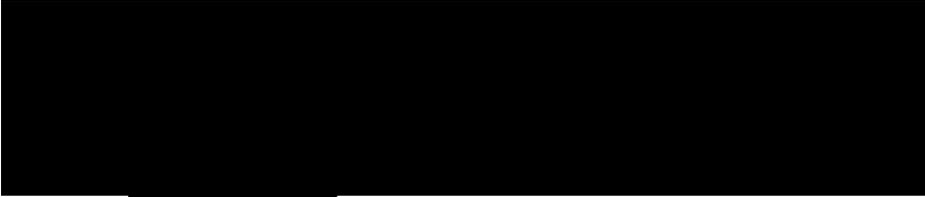
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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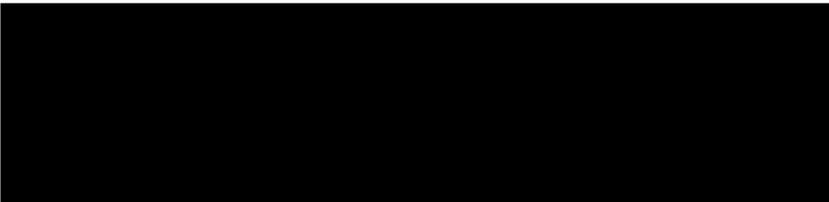
FILE:  Office: VERMONT SERVICE CENTER Date: JAN 30 2008  
EAC 04 158 51807

IN RE: Petitioner:  
Beneficiary:



PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the preference visa. The Administrative Appeals Office (AAO) rejected a subsequent appeal as having been filed by the beneficiary, rather than the petitioner. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be rejected as untimely filed.

The record contains a Form G-28 executed by a representative of the petitioner recognizing [REDACTED] as its counsel. When this office issued the decision on appeal the record did not contain a Form G-28 executed by a representative of the petitioner indicating that it consented to be represented by [REDACTED]. With the motion, [REDACTED] submitted a Form G-28 Notice of Entry of Appearance recognizing her as the petitioner's counsel. The decision on the motion will be provided to the petitioner and to [REDACTED].

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. 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 AAO issued its decision on April 4, 2007. Citizenship and Immigration Services (CIS) received the instant motion on May 14, 2007, 40 days after the decision was issued. Counsel offered no explanation of the late filing.

Accordingly, the motion was untimely filed. As the motion was untimely filed, the motion must be rejected.

**ORDER:** The motion is rejected.