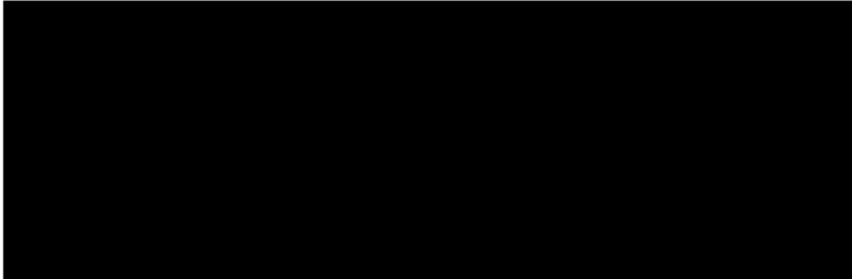


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



B9

DATE: OFFICE: VERMONT SERVICE CENTER

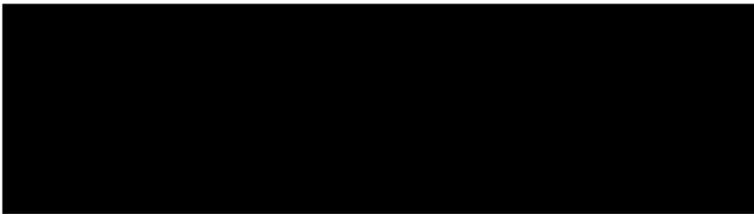
FILE:

DEC 20 2012

IN RE:

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Vermont Service Center Director (the director) revoked approval of the immigrant visa petition after properly notifying the petitioner and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The regulation requires that an appeal from the revocation of a petition must be filed within 15 days after the service of the notice of revocation. 8 C.F.R. § 205.2(d). If the notice was mailed, the appeal must be filed within 18 days. *See* 8 C.F.R. § 103.8(b).

The record in this case shows that the director issued the revocation decision on June 4, 2012. The director improperly stated that any appeal had to be filed within 33 days of the revocation decision. The director's error does not, however, extend the regulatory requirement that the appeal of a revocation decision issued by mail must be filed within 18 days. U.S. Citizenship and Immigration Services (USCIS) received the petitioner's Notice of Appeal on July 3, 2012, which was 29 days after the director's decision was issued. The appeal was thus 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 Director of the Vermont Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director determined that the late appeal did not meet the requirements of a motion and forwarded the matter to the AAO.

The appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.