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U.S. Citizenship
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Services



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MAY 03 2005

FILE: WAC 98 248 50007 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.

Maui Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The motion is untimely. Under the provisions of 8 C.F.R. § 103.5(a)(1)(i), a motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen. The regulation at 8 C.F.R. § 103.5a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. The AAO issued its decision on July 16, 2001. The petitioner's motion to reopen was received by the service center on August 31, 2001, 46 days after the AAO issued its decision. The motion was therefore filed untimely.

The regulation at 8 C.F.R. § 103.5(a) provides that the agency may, in its discretion, accept a motion beyond this time frame if the petitioner demonstrates that the delay was reasonable and beyond his or her control. On motion, counsel stated:

Although more than 30 days have elapsed since the decision was issued, . . . We were waiting for the attached letter from the Ministry of Education of Israel and due to both the current situation in that region as well as the fact that the Ministry of Education was closed during most of the summer, it took more than thirty days to obtain this important letter.

Counsel submitted no evidence of any attempts by the petitioner to obtain its documentation from the Israeli Ministry of Education that were unsuccessful because of "the current situation in the region" or because the Ministry was closed. The petitioner also submitted no evidence that the information contained in the letter could not have been obtained from another source. The petitioner provides no evidence that the delay in filing its motion to reopen was reasonable and beyond its control.

ORDER: The motion is dismissed.