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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
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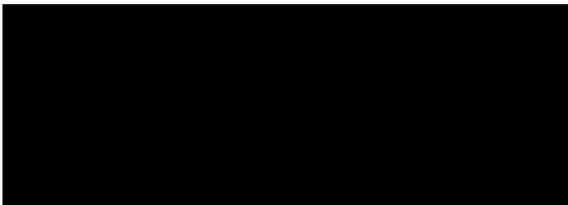
Office: VERMONT SERVICE CENTER

Date: MAY 19 2006

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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.

Mari 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 September 15, 2003. The petitioner's motion to reopen was initially received by the service center on October 30, 2003, 45 days after the AAO issued its decision. The motion was therefore filed untimely. The service center returned the petitioner's motion for failure to include the proper fee. The regulation at 8 C.F.R. § 103.2(a)(7)(i) provides that an "application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed."

The petitioner's motion with the proper fee attached was filed with the service center on December 5, 2003, 81 days after the AAO issued its decision. Therefore, the motion was untimely filed.

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. 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.