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U.S. Citizenship
and Immigration
Services



D9

FILE: WAC 06 193 52736 Office: CALIFORNIA SERVICE CENTER Date: APR 13 2007

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(i)

ON BEHALF OF PETITIONER:
[Redacted]

PHOTIC COPY

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, California Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

An appeal must be filed within 30 days after service of the unfavorable decision. 8 C.F.R. § 103.3(a)(2)(i). If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). All forms submitted to Citizenship and Immigration Services (CIS), including the Form I-290B, Notice of Appeal, must be filed with the appropriate filing fee. 8 C.F.R. § 103.2(a)(1). An appeal which is submitted with the wrong filing fee shall be rejected as improperly filed. 8 C.F.R. § 103.2(a)(7)(i). Rejected appeals do not retain a filing date. *Id.*

In this case, the director denied the petition on August 25, 2006. On September 27, 2006, counsel submitted a Form I-290B for the instant case and a second Form I-290B for the case of an essential support alien (Form I-129 Receipt Number WAC 06 193 52819), but only one filing fee. Accordingly, the California Service Center rejected the instant Form I-290B for lack of the requisite filing fee. Counsel resubmitted the appeal with the proper fee on December 13, 2006, over three months after the director issued his decision. Consequently, the appeal was untimely filed and must be rejected.

Counsel claims that the appeal was timely filed on September 27, 2006 because both beneficiaries (the principal P-1 athlete and the essential support alien) "were covered under the same adverse decision." Counsel is misguided. Although the regulation at 8 C.F.R. § 214.2(p)(2)(iv)(F) allows for more than one beneficiary to be included in a single petition, counsel filed two separate petitions: one for the principal athlete (WAC 06 193 52736) and one for the essential support alien (WAC 06 193 52819). Accordingly, the director adjudicated the two cases separately and issued two adverse decisions, each of which, if appealed, required a separate Notice of Appeal and fee.

The instant appeal was not submitted with the proper fee until over three months had passed since the director issued his adverse decision. Accordingly, the appeal must be rejected as untimely filed.

ORDER: The appeal is rejected.