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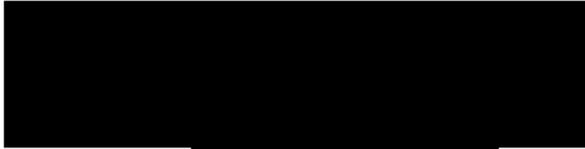
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
LIN 07 098 50561

Office: NEBRASKA SERVICE CENTER

Date: **MAR 19 2010**

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

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Mari Plerson

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Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion to reconsider. The motion will be dismissed pursuant to 8 C.F.R. §§ 103.5(a)(1)(i), 103.5(a)(1)(iii)(C), and 103.5(a)(4).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states in pertinent part that: “Any motion to reconsider an action by the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider.”

The regulation at 8 C.F.R. § 103.5(a)(1)(iii) provides:

(iii) Filing Requirements – A motion shall be submitted on Form I-290B, and may be accompanied by a brief. It must be:

(A) In writing and signed by the affected party or the attorney or representative of record, if any;

(B) Accompanied by a nonrefundable fee as set forth in § 103.7;

(C) Accompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding;

(D) Addressed to the official having jurisdiction; and;

(E) Submitted to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction.

The regulation at 8 C.F.R. § 103.5(a)(1)(i), states that a motion must be filed within 30 days of the decision that the motion seeks to reopen or reconsider. The regulation at 8 C.F.R. § 103.a(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 the decision dismissing the petitioner’s appeal on June 12, 2009. It is noted that the AAO clearly and properly gave notice to the petitioner that: “All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office. . . . All motions must be submitted to the office that originally decided your case Any motion must be filed within 30 days” The record indicates that the petitioner attempted to file the instant motion with the AAO on July 13, 2009. However, the motion was not accepted because it was not submitted “to the office maintaining the record upon which the unfavorable decision was made,” the Nebraska Service Center. *See* 8 C.F.R. § 103.5(a)(1)(iii)(E). On July 14, 2009, the AAO returned the Form I-290B, Notice of Appeal or Motion, to the petitioner indicating that her motion had not been filed with the correct office. The Nebraska Service Center received the Form I-290B with the proper fee on July 20, 2009, 38 days after the decision was served by mail. In this matter, the petitioner’s motion to reconsider was not properly filed within the required thirty days. The motion must therefore

be dismissed as untimely filed. Moreover, the motion does not contain the statement required by 8 C.F.R. § 103.5(a)(1)(iii)(C).

The regulation at 8 C.F.R. § 103.5(a)(4) states that “[a] motion that does not meet applicable requirements shall be dismissed.” Accordingly, the motion will be dismissed, the proceedings will not be reconsidered, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion is dismissed.