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**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**

B2

DATE: **APR 20 2012** Office: TEXAS SERVICE CENTER

FILE: [REDACTED]

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

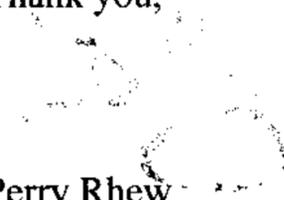
PETITION:      Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to  
                  Section 203(b)(1)(A) of the Immigration and Nationality Act; 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

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,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a second appeal. The appeal will be rejected.

The AAO dismissed the petitioner's appeal on May 23, 2011. On July 15, 2011, counsel submitted Form I-290B, Notice of Appeal or Motion, and marked box A in Part 2 indicating that she was "filing an *appeal* [emphasis added]." However, the AAO does not exercise appellate jurisdiction over its own decisions. The AAO exercises appellate jurisdiction over only the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1 (effective March 1, 2003). Accordingly, the appeal is not properly within the AAO's jurisdiction.

It is noted that while counsel indicated in her cover letter that she was filing a motion to reconsider, there is no indication that counsel's appeal meets the requirements of a motion to reconsider. In order to properly file a motion to reconsider, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the petitioner must file the motion within 30 days of the decision. If the decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i). The regulation at 8 C.F.R. § 1.1(h) explains that when the last day of a period falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Counsel attempted to file the appeal on June 20, 2011, but the appeal was not accepted by the service center initially because counsel failed to complete Part 2 of the form. Specifically, counsel failed to indicate the reason for filing Form I-290B. Counsel submitted a completed Form I-290B on July 15, 2011, 53 days after the director's decision. A motion that does not meet applicable requirements shall be dismissed. *See* 8 C.F.R. § 103.5(a)(4). Here, the untimely appeal does not meet the requirements of a motion to reconsider and would have been dismissed in the alternative.

**ORDER:** The appeal is rejected.