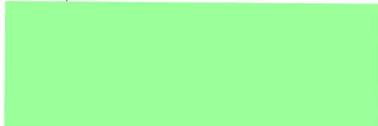




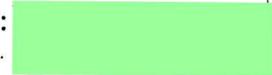
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: APR 30 2013

Office: TEXAS SERVICE CENTER FILE:



IN RE:

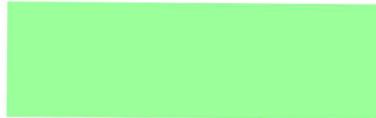
Petitioner:



Beneficiary:

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)

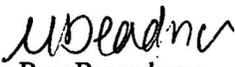
ON BEHALF OF PETITIONER:



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,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability as a journalist. Noting that the record was deficient, the director issued a notice requesting further evidence. After the petitioner failed to submit the requested evidence, the director denied the petition for abandonment, pursuant to 8 C.F.R. § 103.2(b)(13).

The director correctly informed the petitioner that no appeal would lie from the decision. Regardless, counsel submitted an appeal of the director's decision. In Part 2 of the Form I-290B, Notice of Appeal or Motion, counsel checked box "B" indicating "I am filing an appeal."

The regulations provide that no appeal lies from the denial of a petition for abandonment. 8 C.F.R. § 103.2(b)(15). As there is no appeal from the director's denial, the appeal must be rejected.

In addition to the preceding basis for rejection, the AAO notes that the appeal was untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party or the attorney or representative of record must submit the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of submission, but the date of actual receipt with the proper signature and the required fee. *See* 8 C.F.R. § 103.2(a)(7)(i). The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(I) provides that an appeal which is not filed with the time allowed must be rejected as improperly filed.

The record indicates that the service center director issued the decision on October 29, 2012. Counsel attempted to file the appeal on November 28, 2012, but the Form I-290B was rejected by U.S. Citizenship and Immigration Services because it had not been properly signed. Appeals that are not properly signed do not retain a filing date. *See* 8 C.F.R. §§ 103.2(a)(7)(i) and (iii).

Counsel resubmitted the properly signed Form I-290B on December 6, 2012, or 38 days after the director's decision was issued. Accordingly, the appeal was untimely filed.

Neither the Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. Therefore, even if the director's decision was appealable to the AAO, which it is not, the petitioner's untimely appeal would have been rejected as improperly filed.

ORDER: The appeal is rejected.