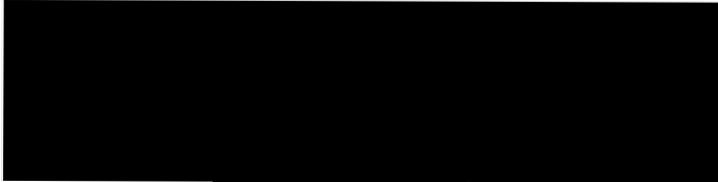


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prevent clearly unwarranted
invasion of personal privacy**



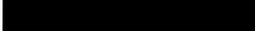
**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



B4

FILE:



Office: TEXAS SERVICE CENTER

Date:

AUG 14 2007

SRC 03 053 54036

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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.

o /

y Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be rejected as untimely filed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion 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. § 103.5a(b). The failure to file before this period expires may be excused at the discretion of the AAO where it is demonstrated that the delay was reasonable and beyond the control of the petitioner. 8 C.F.R. § 103.5(a)(1)(i).

In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a Citizenship and Immigration Services (CIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the motion shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The last decision of the AAO was issued on April 5, 2005. The motion was filed on January 8, 2007, almost two years after the AAO decision was issued.

On motion, the petitioner has requested that the failure to file the motion within the 30-day time period be excused. The petitioner asserts that the delay in filing the motion was beyond the petitioner's control. The petitioner contends ineffective assistance of its two previous counsels, claiming that its most recent counsel failed to file proper documentation, such as a motion to reopen, to rectify the mistakes purportedly made by its previous counsel. The petitioner claims that it was "led to believe that this case had been pending," which resulted in the untimely filing of the current motion to reopen.

As a matter of discretion, the petitioner's failure to file the motion within the period allowed will not be excused as either reasonable or beyond the control of the petitioner. The record indicates that the petitioner was not represented by counsel in its March 8, 2004 appeal to the AAO. The AAO notes that the petitioner's March 8, 2004 appeal was the last filing to be made with respect to the adjudication of the immigrant visa petition and directly preceded the instant motion to reopen. In its April 5, 2005 decision, the AAO acknowledged that the petitioner was self-represented, and, according to CIS procedure, mailed the decision directly to the petitioner. As a result, the claim that the petitioner was led to believe that the adjudication of the immigrant visa petition was pending is not plausible, considering the petitioner itself handled the prior appeal. Accordingly, the motion will be rejected as untimely filed.

ORDER: The motion is rejected as untimely filed.