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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

[redacted]

B4

DATE: FEB 2 1 2012 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner:
Beneficiary: [redacted]

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:

[redacted]

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 by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as 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 file 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. § 103.5a(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 service center director issued his decision on February 18, 2010. The service center director properly gave notice to the petitioner that it had 33 days to file the appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although counsel dated the Form I-290B March 18, 2010, it was not received by the service center until March 24, 2010, or 34 days after the decision was issued. Accordingly, the appeal was untimely filed.

Even if the appeal had been timely filed, the appeal would have been summarily dismissed pursuant to the regulation at 8 C.F.R. § 103.3(a)(1)(v). Upon review of counsel's appellate brief, counsel failed to specify any legal or factual errors made by the director in issuing the adverse decision. While counsel disagrees with the director's decision and maintains that the beneficiary warrants the immigrant classification of a multinational manager or executive, the assertions in the appellate brief do not overcome the director's finding that the beneficiary's position in the United States as a Sales and Marketing Manager cannot be deemed as employment in a qualifying managerial or executive capacity. Counsel did not address the director's finding that the petitioner and the foreign employer have not been shown to have a qualifying relationship.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.