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

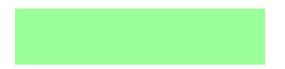


## U.S. Citizenship and Immigration Services

(b)(6)

Date: SEP	1 7 2013	Office: TEXAS SERVICE CENTER	FILE:	
IN RE:	Petitioner:			
	Beneficiary:			
Ũ		tition for Alien Worker as a Multinational Executive or Manager Pursuant to )(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)		

ON BEHALF OF PETITIONER:



## **INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a nonprecedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

the Hall

Ron Rosenberg Chief, Administrative Appeals Office

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(b)(6)

## NON-PRECEDENT DECISION

**DISCUSSION**: The Director, Texas Service Center, denied the immigrant visa petition. The petitioner later filed a motion to reconsider which was granted by the director. The director affirmed the previous decision to deny the petition. 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. 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the actual date of receipt at the designated filing location. 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the service center director issued the decision on February 8, 2013. It is noted that 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 the Form I-290B is dated March 13, 2013, it was not received at the designated filing location until March 14, 2013, or 34 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director of the Texas Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the appeal as a motion and forwarded the matter to the AAO.

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

**ORDER**: The appeal is rejected.

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