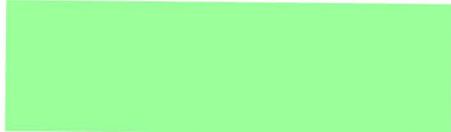
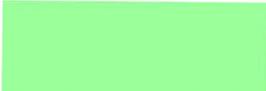


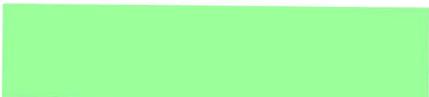
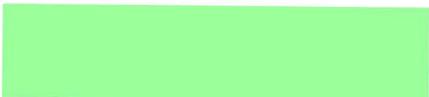
(b)(6)



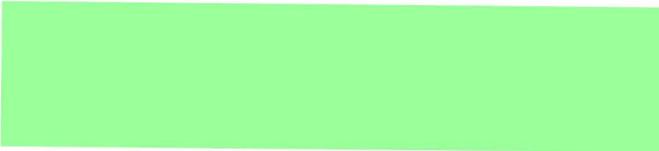
U.S. Citizenship  
and Immigration  
Services



DATE: **JUL 31 2014** Office: TEXAS SERVICE CENTER FILE: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:  


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

  
for Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the immigrant visa petition. The Administrative Appeals Office dismissed a subsequent appeal. The matter is now before us on motion to reopen. The motion will be dismissed pursuant to 8 C.F.R. § 103.5(a)(1)(i), 103.5(a)(1)(iii)(C), and 103.5(a)(4).

In order to properly file a motion to reopen, 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. § 103.8(b). The regulation at 8 C.F.R. § 1.2 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. 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 record indicates that we issued our decision on January 29, 2014. We properly gave notice to the petitioner that she had 33 days to file a motion. The Form I-290B, Notice of Appeal or Motion, was received by U.S. Citizenship and Immigration Services on March 4, 2014, or 34 days after the decision was issued. Accordingly, the motion was untimely filed.

As it relates to motions to reopen, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that “failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.” In this matter, the petitioner’s motion was not properly filed within the required thirty days and she has not demonstrated that this delay was reasonable and beyond her control. The motion must therefore be dismissed as untimely filed. In addition, the instant motion does not contain the statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding as required by the regulation at 8 C.F.R. § 103.5(a)(1)(iii)(C).

The regulation at 8 C.F.R. § 103.5(a)(4) states that “[a] motion that does not meet applicable requirements shall be dismissed.” Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decision will not be disturbed.

**ORDER:** The motion to reopen is dismissed, our January 29, 2014 decision is affirmed, and the petition remains denied.