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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

B4



Date:

APR 30 2012

Office: CALIFORNIA SERVICE CENTER



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)

IN BEHALF OF PETITIONER:



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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, revoked approval of the immigrant visa petition. The matter is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

Pursuant to the regulation at 8 C.F.R. § 205.2(d), in order to properly file an appeal from a decision revoking approval of a petition it must be filed within 15 days after the service of the notice of the revocation with an additional three days given to petitioners served with the notice by mail. *See* 8 C.F.R. § 103.5a(b). Service is considered complete upon the mailing of the notice of revocation. *See Id.*

In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a U.S. Citizenship and Immigration Services (USCIS) 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 appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the director issued the decision on September 24, 2009. The petitioner filed an appeal, which was received by the legacy Immigration and Naturalization Service (INS) on October 23, 2009, or 29 days after the decision was issued. Therefore, the appeal was untimely filed. Although the AAO acknowledges that the revocation notice and the note on the Form I-290B improperly instructed the petitioner that it had 30 days in which to file an appeal, the regulations, not the director, govern the requirements for filing an appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend the 15-day time limit for filing an appeal of a revoked immigrant petition. *See Matter of Liadov*, 23 I&N Dec. 990 (BIA 2006). The AAO does not have the discretionary authority to consider an appeal that has not been timely filed. As the petitioner in the instant matter failed to comply with the time restriction specifically cited in 8 C.F.R. § 205.2(d), the appeal cannot be deemed timely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1) states that an appeal which is not filed within the time allowed must be rejected as improperly filed. Accordingly, the appeal will be rejected as 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 California Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The matter will therefore be returned to the director. If the director determines that the late appeal meets the requirements of a motion, the motion shall be granted and a new decision will be issued.

**ORDER:** The appeal is rejected as untimely filed.