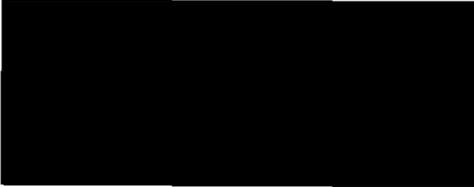




U.S. Citizenship  
and Immigration  
Services



B6

DATE

DEC 19 2012

Office: TEXAS SERVICE CENTER FILE: [REDACTED]

IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Skilled Worker Pursuant 203(b)(3)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry must be made to that office.

Thank you,

Ron Rosenberg

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The petitioner must appeal an unfavorable decision within 30 days of service. 8 C.F.R. § 103.3(a)(2)(i). If the unfavorable decision was mailed, the appeal must be filed within 33 days. 8 C.F.R. § 103.8(b). An untimely appeal must be rejected as improperly filed. Neither the Act nor the regulations grant the AAO authority to extend this time limit.

The filing date is the actual date of receipt at the location designated for filing. 8 C.F.R. § 103.2(a)(7)(i). The appeal must be signed and submitted with the correct fee. *Id.*

The record indicates that the service center director issued the decision on December 20, 2011. It is noted that the service center director properly gave notice to the petitioner that it had 33 days to file the appeal.

Counsel dated the Form I-290B, January 19, 2012. It was not received by the service center until January 24, 2012 or 34 days after the decision was issued. Accordingly, the appeal was untimely filed.

If an untimely appeal meets the requirements of a motion to reopen or reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director, Texas Service Center. 8 C.F.R. § 103.5(a)(1)(ii). As required by 8 C.F.R. § 103.3(a)(2)(ii)-(iv), the director reviewed the appeal prior to forwarding it to the AAO, and did not conclude that it met the requirements of a motion or otherwise warrant favorable action.

The untimely appeal must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

**ORDER:** The appeal is rejected.