



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAR 10 2015**

OFFICE: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:

Beneficiary:

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

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.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center (the director) revoked the approval of the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The appeal is untimely filed. Therefore, we will return the matter to the director for consideration as a motion to reopen and reconsider.

The petitioner must appeal a decision to revoke the approval of a petition within 15 days of service. 8 C.F.R. § 205.2(d). If the unfavorable decision was mailed, the appeal must be filed within 18 days. 8 C.F.R. § 103.8(b).

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 director issued the decision revoking approval of the petition on October 24, 2014. The director properly gave notice to the petitioner that it had 18 days to file the appeal. The petitioner filed the Form I-290B, Notice of Appeal or Motion, on November 25, 2014, or 32 days after the decision was issued. Accordingly, the appeal is untimely.

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, Nebraska Service Center. 8 C.F.R. § 103.5(a)(1)(ii).

As the appeal brief and additional evidence in this matter were submitted directly to us in accordance with 8 C.F.R. § 103.3(a)(2)(viii), the director did not have an opportunity to review the untimely appeal to determine whether it meets the requirements of a motion to reopen or reconsider. Therefore, the matter will be returned to the director. If the director determines that the untimely appeal meets the requirements of a motion, the motion shall be granted and a new decision will be issued. If the director determines that the untimely appeal does not meet the requirements of a motion, no new decision will be issued.

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

ORDER: The untimely appeal is returned to the director for consideration as a motion to reopen or reconsider.