



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUN 23 2015**

FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Immigrant Abused Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for 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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

 Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center (the director), denied the immigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is before us again on a motion to reopen and reconsider. The motion will be denied.

A motion to reopen or reconsider must be filed within 30 days of the adverse decision. 8 C.F.R. § 103.5(a)(1)(i). The filing deadline for motions to reopen may be excused in the discretion of U.S. Citizenship and Immigration Services (USCIS) only “where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.” There is no such exception in the regulations to the filing deadline for a motion to reconsider. If the adverse decision was mailed, the motion must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). A motion that does not meet the applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In this matter, we issued our decision on September 9, 2014 and properly notified the petitioner at her address of record that she had 33 days to file the appeal. Neither the Immigration and Nationality Act nor the pertinent regulations grant us authority to extend this time limit.

The instant motion to reopen and reconsider was filed on December 5, 2014, or 87 days after the decision was issued. Accordingly, the motion to reconsider was untimely filed. The petitioner has not addressed the late filing of her motion to reopen. As our review of the record does not demonstrate that the petitioner’s failure to file the motion within 33 days of the decision was reasonable and beyond her control, the delay in filing her motion to reopen is not excused under 8 C.F.R. § 103.5(a)(1)(i). Consequently, the petitioner’s motion to reopen is also untimely.

The petitioner’s motion to reopen and reconsider was untimely filed, and must therefore be denied.

ORDER: The motion is denied. Our decision dated September 9, 2014 is affirmed. The petition remains denied.