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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

[REDACTED]

D13

DATE: **APR 19 2012** Office: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

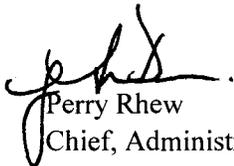
PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:  
[REDACTED]

**INSTRUCTIONS:**

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen and a motion to reconsider. The motions will be dismissed.

The motions are untimely. Under the provisions of 8 C.F.R. § 103.5(a)(1)(i), a motion to reopen or to reconsider must be filed within 30 days of the decision that the motion seeks to reopen or reconsider. The regulation at 8 C.F.R. § 103.5a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. The AAO issued its decision on May 31, 2011. The petitioner initially submitted a Form I-290B, Notice of Appeal or Motion, without completing Part 2 indicating whether it was filing an appeal or motion. The instructions to the Form I-290B advise the filer, "You must clearly indicate if you are filing an appeal or motion." By a July 11, 2011 Form I-797C, Notice of Action, the director notified the petitioner that the Form I-290B was rejected and the form and fees returned as the petitioner failed to complete Part 2 of the form. The completed motion was received by the service center on July 26, 2011, 56 days after the AAO issued its decision. The motion was therefore filed untimely.

The regulation at 8 C.F.R. § 103.5(a) provides that the agency may, in its discretion, accept a motion to reopen beyond this time frame if the petitioner demonstrates that the delay was reasonable and beyond his or her control. The petitioner did not allege and submitted no evidence to establish that its failure to file its motion within the prescribed time was beyond its control.

**ORDER:** The motion is dismissed.