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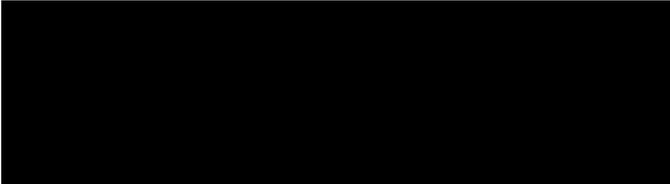
U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
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Services

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File: WAC 01 155 52572 Office: CALIFORNIA SERVICE CENTER Date: MAY 16 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

IN BEHALF OF PETITIONER:
[Redacted]

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center. The petitioner filed a subsequent appeal. The Administrative Appeals Office (AAO) determined that the appeal was not filed in a timely manner. The AAO rejected the appeal without rendering a decision. The matter is now before the AAO on a motion to reopen or reconsider. The motion will be rejected.

The petitioner, a full service beauty salon located in Hawaii, seeks to extend its authorization to employ the beneficiary temporarily in the United States as its assistant manager/liaison officer pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L).

The director denied the petitioner on October 12, 2001. On November 23, 2001, counsel for the petitioner filed an appeal seeking review of the director's decision. After reviewing the record, the AAO rejected the appeal as the appeal had not been filed in a timely manner. Any appeal that is not filed within the time allowed must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

The petitioner has now filed a motion seeking to reopen the appeal that was rejected as untimely filed.

As the appeal was rejected by the AAO, there is no decision on the part of the AAO that may be reopened or reconsidered in this proceeding. According to 8 C.F.R. § 103.5(a)(1)(ii), jurisdiction over a motion resides in the official who made the latest decision in the proceeding. Since the AAO was required to reject the untimely appeal pursuant to the regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1), the latest decision in this proceeding was that rendered by the director. Therefore, the AAO has no jurisdiction over this motion and the motion must be rejected.

ORDER: The motion is rejected.