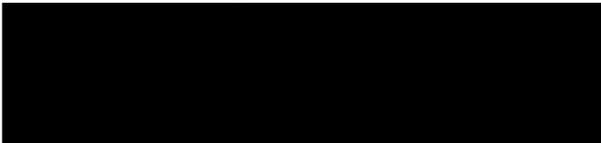


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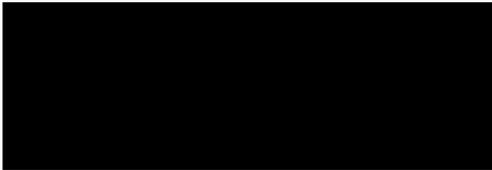
File: LIN 02 142 54047 Office: NEBRASKA SERVICE CENTER Date: **AUG 03 2006**

IN RE: Petitioner:
Beneficiary:



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:



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, Chief
Administrative Appeals Office

Am 00306 - 14D71d

DISCUSSION: The Director of the Nebraska Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1) requires an affected party to file the complete appeal within 30 days after service of the decision, or, in accordance with 8 C.F.R. § 103.5a(b), within 33 days if the decision was served by mail. The record indicates that the decision of the director was mailed on September 20, 2002. Counsel for the petitioner attempted to file an appeal on October 16, 2002, but the Nebraska Service Center properly rejected the appeal because counsel to the petitioner failed to sign the Form I-290B. The Nebraska Service Center promptly returned the appeal documents to counsel to the petitioner along with a rejection notice. The appeal was filed with a properly executed Form I-290B on October 25, 2002, 35 days after the decision was mailed. Thus, the appeal was not timely filed.

The regulation at 8 C.F.R. § 103.2(a)(1) requires that all documents submitted to a service center must be executed and filed in accordance with the instructions on the form. Further, 8 C.F.R. § 103.2(a)(7) provides that “[a]n application or petition which is not properly signed . . . shall be rejected as improperly filed” and that “[r]ejected applications and petitions . . . will not retain a filing date.” Therefore, the petitioner’s attempt to file an appeal with an unsigned I-290B on October 16, 2002, did not extend its time to file a properly executed appeal beyond the 33rd day.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.