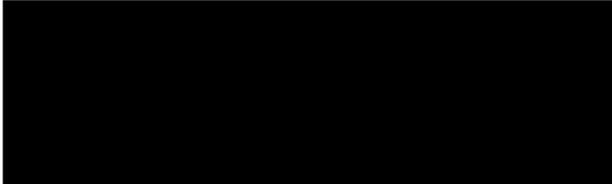


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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



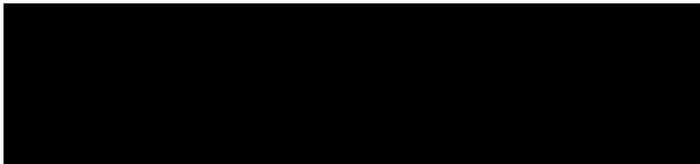
D7

DATE: **AUG 30 2011** Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:   
Beneficiary:

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

ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition. The Administrative Appeals Office (AAO) dismissed the subsequently filed appeal and affirmed the director's decision to deny the petition. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen and a motion to reconsider. The AAO will reject the motion as untimely filed.

The petitioner filed the nonimmigrant petition seeking to extend the beneficiary's employment under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L) as an intracompany transferee employed in a managerial or executive capacity. The petitioner, a Florida corporation, states that it is engaged in international import and export in the United States. It claims to be an affiliate of [REDACTED] located in Guayaquil, Ecuador. The petitioner has employed the beneficiary in L-1A status since June 2003 and now seeks to extend his status for two additional years.

The director denied the petition, and the AAO subsequently dismissed the appeal, concluding that the petitioner failed to establish that the beneficiary would be employed by the U.S. entity in a primarily managerial or executive capacity.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(iii) provides that the affected party must file the complete appeal with the office maintaining the record of proceeding within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a USCIS office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the AAO issued the adverse decision on October 20, 2009. It is noted that the AAO properly gave notice to the petitioner that it had 33 days to file the appeal and properly instructed the petitioner to submit the appeal to the office that originally decided the case.

The AAO notes that the petitioner initially submitted the Form I-290B, Notice of Appeal or Motion directly to the AAO, and not to the Vermont Service Center, contrary to the regulation at 8 C.F.R. § 103.5(a)(1)(iii)(E) and the instructions on the AAO decision. The AAO returned the appeal to the petitioner, advising again that the appeal must be filed with the USCIS office that issued the original decision. The petitioner properly ultimately filed the appeal with the service center on December 8, 2009, 49 days after the AAO's decision was issued. Consequently, the motion in this matter was untimely filed.

Neither the Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing a motion. Thus, the motion was not timely filed and must be rejected on these grounds pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

**ORDER:** The motion is rejected.