

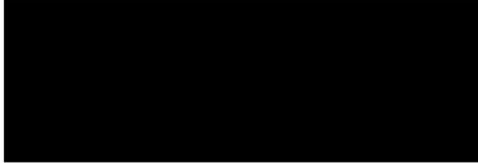
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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87

DATE: **MAY 04 2012** OFFICE: VERMONT SERVICE CENTER

FILE:

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: SELF-REPRESENTED

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The petitioner subsequently filed an appeal with the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The matter is now before the AAO on motion to reopen and reconsider. The motion will be rejected as untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that in order to properly file a motion to reopen or reconsider, the affected party must file the motion within 30 days of service of the decision the motion seeks to reconsider or reopen. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. 8 C.F.R. § 103.2(a)(7)(i). With regard to the motion to reopen, an untimely filing may be excused in the discretion of the AAO where it is demonstrated that the delay was reasonable and was beyond the petitioner's control. 8 C.F.R. § 103.5(a)(1)(i).

The record indicates that the AAO issued the decision on July 15, 2010 and notified the petitioner that it had 33 days to file the motion. USCIS received the motion in the present matter on August 25, 2010, or 41 days after the decision was issued. Therefore, the motion was untimely filed.

The petitioner neither claimed nor provided evidence to establish that delay in filing the motion beyond the permitted time period was reasonable and was beyond the petitioner's control. The untimely filing of the motion cannot be excused and the untimely filed motion must be rejected. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(I).

ORDER: The motion is rejected as untimely filed.