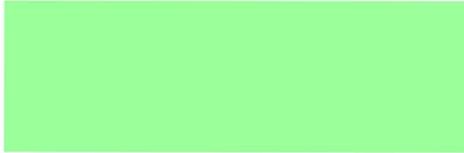
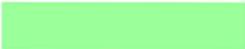


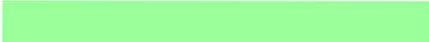
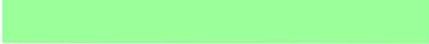


U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **MAY 14 2013** 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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is 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 you might have concerning your case must be made to that office.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition. The petitioner subsequently appealed the decision to the Administrative Appeals Office (AAO), which dismissed the appeal. The matter is now again before the AAO based on another appeal filed by the petitioner.<sup>1</sup> The motion will be rejected as untimely filed.

In order to properly file a motion to reconsider or reopen, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party or the attorney or representative of record must file the motion within 30 days of service of the unfavorable decision. If the decision was mailed, the motion must be filed within 33 days. 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the actual date of receipt at the designated filing location. 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the AAO dismissed the appeal of the director's decision on December 17, 2012. It is noted that the AAO properly gave notice to the petitioner that it had 30 days to file a motion to reconsider or reopen. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although the Form I-290B is dated January 17, 2013, it was not received by the California Service Center until January 23, 2013, or 37 days after the AAO's dismissal was issued. Accordingly, the motion was untimely filed.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that an untimely motion may be excused at the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the petitioner. However, in the present matter, counsel has not offered any reasons for the lateness of the motion. Indeed, the petitioner has failed to submit a brief or any additional evidence in support of the appeal. Therefore, it cannot be determined if such delay was reasonable or beyond the control of the petitioner. Accordingly, the untimely filing of the motion cannot be excused and the untimely filed motion must be rejected. *See* 8 C.F.R. § 103.5(a)(1)(i).

**ORDER:** The motion is rejected as untimely filed.

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<sup>1</sup> The petitioner noted in the I-290B Notice of Appeal or Motion that it was filing an appeal. As noted in the AAO instructions submitted on the cover page of its previous decision dated December 17, 2012, the petitioner is entitled, consistent with the regulations, to file a motion to reopen or reconsider the AAO's previous decision. The AAO has already provided an appellate decision related to this matter, and there is no regulatory or statutory provision that allows a petitioner more than one appellate decision per petition filed. As such, for the purpose of this rejection, the appeal will be treated as a motion.