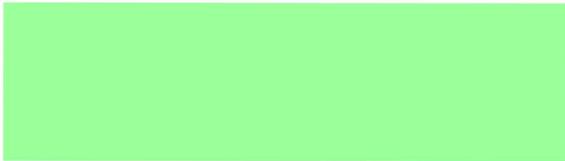
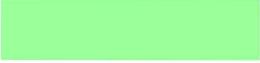




U.S. Citizenship
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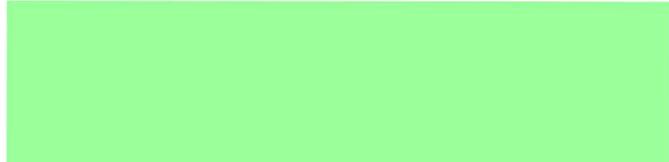


Date: **AUG 29 2014** Office: CALIFORNIA SERVICE CENTER FILE: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
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 before the AAO based on a combined motion to reopen and reconsider. The motion will be dismissed.

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 March 26, 2014. It is noted that the AAO properly gave notice to the petitioner that it had 33 days to file any motion to reconsider or reopen by mail. In this case, the deadline for filing a motion was April 28, 2014.

Although the Form I-290B is dated April 25, 2014, the record reflects that it was mailed on April 28, 2014 and received at the designated filing location until April 29, 2014, or 34 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 to reopen 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. Therefore, it cannot be determined if such delay was reasonable or beyond the control of the petitioner.

The regulation at 8 C.F.R. § 103.5(a)(4) provides that a motion that does not meet applicable requirements shall be dismissed. Accordingly, the motion will be dismissed based on its untimely filing.

ORDER: The motion is dismissed.