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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICES
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

APR 09 2003

File: [redacted] Office: California Service Center Date:

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

PUBLIC COPY

ON BEHALF OF PETITIONER: [redacted]

INSTRUCTIONS:
This is the decision 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.

Helen E. Crawford for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, California Service Center. On the basis of new information received and on further review of the record, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and her reasons therefor. Subsequently, the Acting Director, California Service Center, revoked the approval of the petition on December 31, 2001. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The regulation at 8 C.F.R. § 205.2(d) indicates that revocations of approvals must be appealed within 15 days after service of the notice of revocation. The appeal was filed on February 7, 2002, 38 days after service of the decision was rendered. Thus, the appeal was not timely filed.

In his decision, the director erroneously stated that the petitioner had 30 days to file the appeal (33 days if by mail). The director's error, however, cannot supersede the regulation regarding the time allotted to appeal a revocation.

8 C.F.R. § 103.3(a)(2)(v)(B)(1) states that an appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

ORDER: The appeal is rejected.