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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

PUBLIC COPY

[redacted]

JUL 03 2003

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

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The record of proceeding contains the Form I-360 petition and accompanying documentation, the director's request for additional evidence and the petitioner's response to the request for additional evidence, the director's decision dated June 12, 1998 and an appeal dated July 1, 1998. The appeal was not received by the Bureau until July 21, 1998, more than thirty-three days after the director's decision.

According to 8 C.F.R. § 103.3(a)(2)(i), an affected party must file an appeal within 30 days of service of the decision. In the instant case, the appeal was untimely filed and will be rejected.

If an appeal is untimely, the appeal may still be treated as a motion to reopen or reconsider if it meets the requirements of a motion to reopen or motion to reconsider.

8 C.F.R. § 103.5(a)(2)(i)(ii) requires that a motion to reopen state the new facts to be proved at the reopened proceeding; and be supported by documentary evidence.

8 C.F.R. § 103.5(a)(3)(i)(ii) requires that a motion for reconsideration state the reasons for reconsideration; and be supported by any pertinent precedent decisions.

In the instant case, no new facts were offered and no reasons for reconsideration were offered. The untimely appeal does not meet the requirements of either a motion to reopen or a motion to reconsider.

ORDER: The appeal is rejected.