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U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

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

[redacted]

File: EAC 01 072 54174 Office: VERMONT SERVICE CENTER Date: FEB 28 2003

IN RE: Petitioner: [redacted]
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: [redacted]

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 which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected as improperly filed.

The petitioner is engaged in the sales and distribution of ladies garments. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its general manager/president. The director determined that the petitioner had not established that the beneficiary has been or would be employed in a primarily managerial or executive capacity.

8 C.F.R. 103.3(a)(2)(i) states, in pertinent part:

> The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

8 C.F.R. 103.2(a)(7)(i) states, in pertinent part:

> An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204 or part 245 of this chapter, shall be regarded as properly filed when so stamped, *if it is properly signed and executed* . . . . An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. (Emphasis added.)

The denial notice in the instant case was sent to the petitioner on June 11, 2001. The petitioner initially filed the appeal on July 10, 2001. However, the appeal was returned with a notice from the Service informing the petitioner that the appeal was not properly signed and therefore cannot be accepted. The signed appeal was received by the Service on August 14, 2001, more than 60 days after the denial had been issued. The properly-signed appeal was untimely filed and therefore must be rejected.

ORDER: The appeal is rejected.