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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

[redacted]

File: [redacted] Office: NEBRASKA SERVICE CENTER Date: JAN 0 9 2004

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)

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, Nebraska Service Center. On the basis of new information received and on further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with a notice of intent to revoke the approval of the preference visa petition, and his reasons therefor, and ultimately revoked the approval of the petition on April 5, 2002. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely filed.

Although it is noted that the cover sheet accompanying the director's decision stated that the applicable time to appeal his decision is thirty days, the regulation at 8 C.F.R. § 205.2(d) indicates that revocations of approvals must be appealed within 15 days after the service of the notice of revocation. The record indicates that the notice of revocation was mailed on April 5, 2002. The appeal was filed on May 8, 2002, 33 days after the decision was mailed. Thus, the appeal was not timely filed. The director's erroneous instructions do not supersede the law or regulations.

8 C.F.R. § 103(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 CIS has accepted will not be refunded.

ORDER: The appeal is rejected as untimely filed.