U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF QNNS- (USA) INC. DATE: MAR. 19, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, which sells safes, seeks to extend the Beneficiary's temporary employment as its president and chief executive officer under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The Director of the California Service Center denied the petition and we dismissed the subsequent appeal. The matter is now before us on a motion to reopen and motion to reconsider. Upon review, we will deny the motions as untimely filed.

A motion must be filed within 33 calendar days of the date that the unfavorable decision was served by mail. 8 C.F.R. §§ 103.5(a)(1)(i); 103.8(b). The filing date is the day USCIS receives the motion at the designated filing location, not the date the Petitioner mailed the motion. 8 C.F.R. § 103.2(a)(7)(i).

On December 12, 2017, we dismissed the Petitioner's appeal and served the unfavorable decision by mail. The decision stated that the Petitioner may file a motion within 33 days. USCIS received the motion on February 5, 2018, which is 55 days after the service date of the unfavorable decision. We note that the record indicates USCIS received, but rejected, a prior motion filing attempt on January 17, 2018. However, a rejected filing does not retain a filing date. 8 C.F.R. § 103.2(a)(7)(ii). Even if the motion did retain the January, 17, 2018, receipt date, that date is 36 days after the service date of the unfavorable decision. Accordingly, we are denying the motion as untimely filed.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of QNNS- (USA) Inc.*, ID# 1410129 (AAO Mar. 19, 2018)