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U.S. Department of Homeland Security

Citizenship and Immigration Services

PUBLIC COPY

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

[redacted]

File: EAC 01 147 51608 Office: Vermont Service Center Date: FEB 23 2004

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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 employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The petitioner seeks to employ the beneficiary as a driver/mechanic. The director determined the petitioner had not established the beneficiary's sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. Specifically, the director concluded that the petitioner had not submitted any evidence relating to the evidence required by regulations at 8 C.F.R. § 204.5(h)(3). The AAO summarily dismissed the appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v), because the petitioner's appeal did not address the stated grounds for denial.

CIS regulations at 8 C.F.R. § 103.5(a) state, in pertinent part:

> (2) *Requirements for motion to reopen.* A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. . . .
>
> (3) *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.
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> (4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed.

The petitioner's statement on motion reads, in full, "to continue the process for my petition – I-140 application. Attached see copy of my license as a electric welder [sic] which I am workin [sic] for my company right now." The use of first-person pronouns indicates that the beneficiary, rather than the petitioner, wrote the above statement, although the petitioner signed the appeal form submitted with the motion.

The petitioner submits a copy, with translation, of a 1987 certificate indicating that the beneficiary "has completed the initial requirements for [qualification as an] electric welder." The AAO, however, did not dismiss the appeal because of a lack of evidence regarding the beneficiary's certification as a welder. Rather, the AAO summarily dismissed the appeal because the petitioner had offered no response or rebuttal to any of the director's material findings. Similarly, on motion, nothing in the latest submission contests the AAO's summary dismissal of the appeal.

The issue is not whether the beneficiary is a qualified welder. There are numerous employment-based immigrant visa classifications, each with different evidentiary requirements. The petitioner has, in this instance, sought an extremely restrictive visa classification, and by law the petition can only be approved if the beneficiary is nationally or internationally acclaimed at the very top of his field of endeavor. The petitioner has shown only that the beneficiary meets minimal job requirements.

The petitioner's appeal did nothing to address the grounds for denial, and the petitioner's motion does nothing to address the grounds for summary dismissal. Simply expressing a desire to keep the proceeding active cannot, and does not, constitute valid or sufficient grounds to reopen or reconsider a previous denial or dismissal.

We note that if the petitioner seeks to file any further motions in this case, the petitioner must demonstrate that AAO erred in dismissing the present motion and in summarily dismissing the appeal, and that the director erred in denying the petition. The petitioner must also show that the petition was amenable to approval as of the day it was filed, April 2, 2001. Any motion that does not address all of these points will be considered frivolous and will be dismissed. Simply expressing a desire to "continue the process" can never suffice as a basis for an appeal or motion.

For the above reasons, the petitioner's submission does not meet the requirements for a motion to reopen or a motion to reconsider, and therefore the motion must be dismissed.

ORDER: The motion is dismissed.