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Citizenship and Immigration Services

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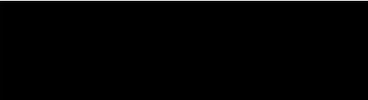
ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, D.C. 20536



File: WAC 03 052 50737 Office: CALIFORNIA SERVICE CENTER

Date: **DEC 3 - 2003**

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as an Outstanding Professor or Researcher pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

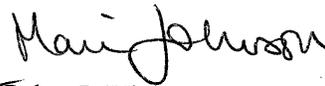
INSTRUCTIONS:

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.

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 Citizenship and Immigration Services (CIS) 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.

to 
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The director denied the petition because an alien cannot self-petition under this classification.

CIS regulations at 8 C.F.R. § 204.5(i)(1) state “[a]ny United States employer . . . may file an I-140 visa petition” to classify an alien worker as an outstanding professor or researcher. The regulations do not indicate that an alien may file a petition on his or her own behalf. The director cited this regulation in the notice of denial.

On appeal, the petitioner submits a copy of a job offer letter from Cisco Systems, Inc., dated December 5, 2000. The letter states a projected starting date of January 10, 2001. The petitioner’s resume indicates that the beneficiary did not actually begin working at Cisco Systems until March 2002.

The job offer letter from Cisco Systems does not overcome the central issue of the denial. Only a United States employer may file a petition seeking to classify an alien as an outstanding researcher. Because the alien filed this petition on his own behalf, the petition was not properly filed. The job offer letter cannot retroactively alter the circumstances of the petition’s filing. Because the petition was not properly filed, it cannot be approved, and the appeal must be dismissed.

This decision is without prejudice to a new petition properly filed, with the appropriate fee and supporting evidence, by a qualifying United States employer.

ORDER: The appeal is dismissed.