



U.S. Department of Justice
Immigration and Naturalization Service

105

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

[Redacted]

Public Copy

File: WAC 98 231 50222 Office: Western Service Center Date: JUL 12 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

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 which 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 which 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, Acting Director
Administrative Appeals Office

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

The petitioner develops computer software. It seeks to employ the beneficiary permanently in the United States as a programmer analyst. The Form I-140 petition indicates that the petitioner seeks to classify the petitioner as a member of the professions holding an advanced degree, pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2). As required by statute, the petition was accompanied by certification from the Department of Labor. The director determined that the position does not require a member of the professions holding an advanced degree.

On appeal, counsel asserts that the petitioner had inadvertently checked the wrong box on the petition form, and the record shows that the petitioner has repeatedly attempted to rectify this error.

Review of Service records indicates that, subsequent to filing the instant petition, the petitioner filed another Form I-140 petition, this time seeking the proper classification, with receipt number WAC 99 253 53594. (This second petition appears to have been filed around the same time as the instant appeal.) Service records further indicate that the second petition was approved on October 27, 1999. The alien subsequently filed a Form I-485 Application to Adjust Status, receipt number WAC 00 061 50351, which was approved on September 18, 2000. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed, based on the alien's adjustment to lawful permanent resident status.