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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
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ULLB, 3rd Floor  
Washington, D.C. 20536



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File: WAC 98 231 50327

Office: California Service Center

Date: JAN 03 2002

IN RE: Petitioner:

Beneficiary:



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:



Public Copy

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 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

*for*   
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 Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a researcher studying micro credit programs. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On the Form I-290B Notice of Appeal, filed on March 6, 2000, counsel indicated that a brief would be forthcoming within 90 days. To date, nearly two years later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The statement on the appeal form reads simply:

This petition was submitted before the decision in the Matter of New York State Department of Transportation was delivered. As such [the petitioner] was never given the opportunity to present additional evidence that would have met the standards set forth in that decision.

Counsel refers to Matter of New York State Dept. of Transportation, I.D. 3363 (Acting Assoc. Comm. for Programs, August 7, 1998), a precedent decision affecting the national interest waiver that the petitioner seeks. The petition, however, was filed on August 25, 1998, several weeks after the publication of the precedent decision, and not before as counsel claims.

8 C.F.R. 103.3(a)(2)(vii) requires a petitioner to request, in writing, additional time to submit a brief, and the regulation states that such an extension will be granted only for good cause shown. Counsel explains that the appeal will require "expert testimony from researchers both inside and outside the United

States" which cannot be obtained within 30 days. Counsel does not identify any of these experts, specify what efforts had already been made to contact them, or explain specifically why such statements would require up to three months to obtain and submit. In any case, the record contains no further submission.

The single factual claim upon which the appeal rests is demonstrably not true, and the record contains no subsequent submission from the petitioner. The appeal, as it is constituted in the record, contains no substantive grounds for appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

**ORDER:** The appeal is summarily dismissed.