

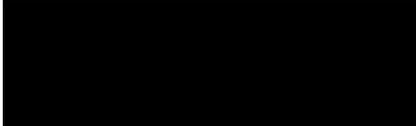


B5

U.S. Department of Justice  
Immigration and Naturalization Service

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



File: [Redacted] Office: Nebraska Service Center

Date: JUN 12 2007

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:  
Self-represented

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

Robert P. Wiemann, Director  
Administrative Appeals Office

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

It is noted that the Form I-140 petition identifies [REDACTED] the petitioner and [REDACTED] as the beneficiary. The petition, however, was signed not by Swee Lay Ng, but by the alien beneficiary, [REDACTED]. Therefore [REDACTED] all be considered to be the petitioner. The director's decision properly noted that the petitioner was filing in his own behalf.

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 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 failed to establish that he qualifies as a professional holding an advanced degree or its equivalent, or an alien of exceptional ability. The director also found 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.

The regulation at 8 C.F.R. 204.5(k)(4)(ii) states, in pertinent part:

The director may exempt the requirement of a job offer, and thus of a labor certification... if such exemption would be in the national interest. To apply for the exemption the petitioner must submit Form ETA-750B, Statement of Qualifications of Alien, in duplicate.

A review of the record reveals that the petitioner has not submitted Form ETA-750B in duplicate, as required by the regulation.

The director's decision states: "It is unclear whether or not the alien petitioner holds the requisite advanced degree or exceptional ability," and "It was unclear as to how the alien petitioner qualifies for an exemption from the requirement of the job offer." While the wording of the director's decision may certainly be improved, we find that it is by no means so flawed as to undermine the grounds for denial. At the conclusion of the decision, the director does state the following: "There was no evidence to suggest that the national interest would be served by allowing the alien petitioner to waive the requirement of a job offer." The absence of Form ETA-750B and a lack of evidence reflecting the petitioner's impact on his field support the director's conclusion. Review of the evidence submitted reveals that the petitioner has failed to establish that he qualifies as a professional holding an advanced degree or its equivalent, or an alien of exceptional ability, or that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner indicated that a brief and/or evidence would be submitted to the Administrative Appeals Unit ("AAU") within 30 days. The appeal was dated May 13, 1999 and offered no explanation under Part 3 of the Form I-290B.

On June 14, 1999, the petitioner submitted documentation related to an alien employment certification application filed with the State of Washington's Employment Security Department. A notice from the State of Washington's Employment Security Department states that the petitioner's file was closed pursuant to 20 C.F.R. 656.21(h). The documentation submitted on June 14, 1999 appears related to the petitioner's response to this notice. In a letter written to the Employment Security Department, the petitioner states:

The U.S. Immigration and Naturalization Service regarded that [the petitioner] is an alien with a broad range of knowledge and interest in his field of specialty, but without an advanced degree, and therefore an alien labor certificate is required... They strongly advised me to apply for a labor certificate.

A review of the documentation submitted reflects that it relates to the petitioner's pursuit of labor certification, rather than his appeal of the director's decision denying the Form I-140. As of this date, the AAU has received nothing further related to the petitioner's appeal of the director's decision.

As stated in 8 C.F.R. 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The petitioner has not specifically addressed the reasons stated for denial or even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.