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U.S. Department of Justice
Immigration and Naturalization Service

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

Identifying data deleted to
prevent disclosure of
in [redacted] Agency

File: EAC 98 182 52328 Office: VERMONT SERVICE CENTER

Date:

23 SEP 2002

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]

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, Vermont Service Center. The Associate Commissioner for Examinations subsequently remanded the matter for a new decision. The director again denied the petition and certified the decision to the Associate Commissioner for review. The director's decision will be affirmed and the petition will be denied.

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 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. In the certified denial, the director determined that the petitioner has abandoned the petition, because the petitioner did not respond to a request for further evidence.

Review of Service records indicates that, subsequent to the filing of the instant petition, a U.S. employer filed another Form I-140 petition seeking another classification on the alien's behalf. Service records further indicate that the second petition was approved on December 16, 1999. This approval took place during the period allotted for the petitioner's response to the request for evidence, and likely accounts for the petitioner's failure to respond. The alien subsequently filed a Form I-485 Application to Adjust Status, receipt number EAC 00 089 52371, which was approved on April 18, 2001. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The director's decision is affirmed and the petition is denied, based on the alien's lawful permanent resident status and abandonment of the petition.