

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

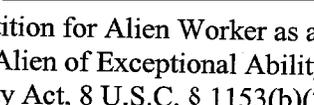
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



B5

DEC 30 2004

FILE: WAC 01 282 57256 Office: CALIFORNIA SERVICE CENTER Date:

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

RP Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be 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 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.

On appeal, the petitioner requested a waiver of the job offer requirement so that he can set up a corporation in the United States to provide information technology services to U.S. companies and develop products for the technology sector.

On November 19, 2003, the AAO dismissed the appeal, concluding that a waiver of the job offer requirement was not warranted where the petitioner had only demonstrated his future plans, and not a track record of success in the field.

On December 5, 2003, the petitioner submitted a letter indicating that it constituted his motion to reopen and/or reconsider the AAO's November 19, 2003 decision. The petitioner's letter and the accompanying documentation, however, do not relate to that decision. Rather, the petitioner argues that the approval of a previous petition in his behalf was improperly revoked. The petitioner concludes that "the I-485 filed on behalf of the petitioner [in] 1995 should not have [been] denied or the petitioner shall be eligible for U.S. Citizenship."

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. § 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Citizenship and Immigration Services (CIS) policy.

A motion to reopen or reconsider must attempt to address the decision it seeks to reopen or have reconsidered, not decisions that relate to a previous petition or application. The petitioner has not filed a proper motion to reopen or reconsider the AAO's November 19, 2003 decision. The petitioner has not provided any new evidence that addresses the bases of the AAO's November 19, 2003 decision relating to the petitioner's self-petition filed on August 31, 2001. In addition, the petitioner has not argued or provided precedent decisions indicating that the November 19, 2003 decision was based on an incorrect application of law or CIS policy.

ORDER: The motion is dismissed.