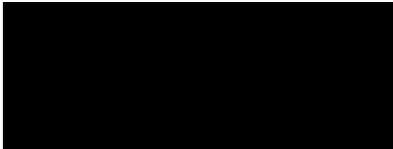


U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
Eye Street, N.W.
Washington, DC 20536

PUBLIC COPY

B5



File: WAC-02-087-55879

Office: California Service Center

Date:

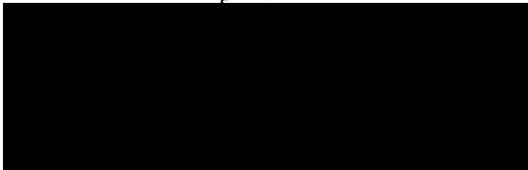
IN RE: Petitioner:
Beneficiary:



JAN 16 2004

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:



**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 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 Citizenship and Immigration Services (CIS) 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.


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 Administrative Appeals Office (AAO) on appeal. The petition will be remanded for further action.

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.

The petitioner filed the instant petition on January 14, 2002. Under Part 4, the petitioner indicated that he was concurrently filing a separate petition seeking classification as an alien of extraordinary ability pursuant to section 203(b)(1)(A) of the Act. CIS records reflect that the petitioner filed such a petition on the same date, receipt number WAC-02-087-55826. That receipt number has since been consolidated into alien file A97 222 626.

While the director makes reference to evidence submitted initially in his request for additional documentation and in his final decision, the record contains none of the documents referenced. In fact, the record contains no evidence at all. It appears that the petitioner may have submitted one packet of evidence for two petitions and that the evidence is currently with the other petition. There are no provisions permitting the submission of one set of documents in support of two separate petitions. Rather, every petition must be filed with the evidence required and that evidence is considered part of the petition with which it was filed. 8 C.F.R. § 103.2(b)(1). Nevertheless, the director did not request another set of the evidence and adjudicated the petition based on evidence not currently in the file. On September 24, 2003, this office requested file A97 222 626 from the Los Angeles District Office in an attempt to locate the missing documents. We received no response.

We are unable to adjudicate the appeal on its merits without the complete record of proceedings. Therefore, this matter will be remanded for the purpose of completing the record of proceedings. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The petition is remanded to the director for further action in accordance with the foregoing, to be forwarded to AAO for adjudication on the merits upon completion of the record.