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

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FILE: WAC 03 200 54273 Office: CALIFORNIA SERVICE CENTER Date: APR 28 2005

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)

ON BEHALF OF PETITIONER:



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

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 on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary 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, as of the petition's filing date, was engaged in postdoctoral studies at Louisiana State University. 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 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, "[a]n 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, counsel writes "Please see attached package." The "attached package" appears to consist solely of photocopies of previously submitted documents, letters and arguments. Because these materials were already in the record before the director denied the petition, their resubmission does not address any specific findings by the director or raise any issues of fact or law regarding that decision. Counsel has, in effect, simply requested a re-adjudication of the petition, instead of explaining why the director's decision (which already took these materials into account) is deficient. Repetition of initial claims is no rebuttal of the director's later findings. Photocopies of previously submitted documents, even when submitted in prodigious quantities, do not and cannot constitute a substantive response or rebuttal to a denial, unless that denial is predicated solely on the alleged absence of those materials from the record (which is not the case here).

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 appeal must be summarily dismissed.

ORDER: The appeal is dismissed.