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FILE: WAC 03 151 52911 Office: CALIFORNIA SERVICE CENTER Date: JUL 26 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.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition on September 18, 2003. The petitioner filed an appeal on October 22, 2003, and a supplemental brief and evidence on December 8, 2003. The Administrative Appeals Office (AAO) rejected the appeal as untimely on June 16, 2004. Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(2), the director treated the petitioner's appeal as a motion to reopen, and again denied the petition on September 29, 2004. The petitioner filed a "motion to reopen and reconsider, or in the alternative, appeal" on October 26, 2004. The director treated this ambiguous filing as a motion. The director granted the motion and again denied the petition on December 3, 2004. The matter is now before the AAO on appeal. The appeal will be dismissed.

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, filed on December 23, 2004, counsel indicated that a brief would be forthcoming within thirty days. Six months later, the record did not contain any brief submitted during that period. On July 5, 2005, the AAO contacted counsel to request a copy of the missing brief. Counsel responded by submitting a copy of a brief, dated December 27, 2004, along with copies of supporting documents.

We have carefully examined the December 27, 2004 submission. Except for the 2004 date on the first page of the brief, the brief and supporting documents are identical to the brief and supporting documents that the petitioner had submitted on December 8, 2003, in support of the initial, untimely appeal. When counsel indicated, in the context of the latest appeal, that a brief would follow within 30 days, counsel gave no indication that this would simply be a re-submission of documents already in the record. For that matter, considering that the brief had already been written and submitted, it is far from clear why counsel needed additional time simply to print and submit a re-dated copy of the same brief; these documents could have been submitted with the Form I-290B appeal notice. The petitioner's appellate submission contains no new evidence or arguments.

The petitioner has, in effect, requested that exactly the same evidence and arguments be considered again and again. The appeal and motion processes do not exist simply as a mechanism for an indefinite series of multiple adjudications. The arguments and documents in counsel's December 8, 2003 brief predate the director's seven-page decision of September 29, 2004 and the director's nine-page decision of December 3, 2004. Therefore, the arguments contained in the brief can hardly be construed as a response to those decisions. Rather, the decisions are responses to the brief.

Repeated resubmissions of arguments and evidence that have already been addressed in multiple decisions do not form a sufficient basis for a substantive appeal. The petitioner has specified no flaws in the director's 2004 decisions that would justify appellate review. In effect, the petitioner seeks, for the fourth time, review of the director's initial decision of September 18, 2003.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in the director's latest decision as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.