

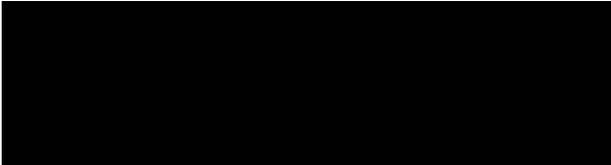


U.S. Citizenship
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FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUN 25 2008
SRC 07 800 22788

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The AAO will withdraw the director's decision and remand the matter for further action and consideration.

The petitioner is an international bank. It seeks to employ the beneficiary permanently in the United States as a technical project manager pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)¹. In pertinent part, section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. The director determined that the petitioner had not complied with the instructions for electronic filing by submitting supporting documentation, including the application for permanent employment certification, within seven business days.

On appeal, counsel asserts that the supporting documentation was submitted concurrently with the supporting documentation for the beneficiary's Form I-485, Application to Register Permanent Residence or Adjust Status. The petitioner submits a FedEx receipt showing the documents were received by the service center on August 3, 2007 and copies of the materials submitted.

The FedEx receipt submitted on appeal is evidence that the petitioner complied with the electronic filing instructions. Further, the record contains the supporting documents timely submitted. Therefore, this matter will be remanded for a full adjudication of the petition on the merits.

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 director's decision is withdrawn and the matter is remanded to the director for issuance of a new decision on the merits, which, if adverse to the petitioner, is to be certified to the AAO for review.

¹ The director erroneously referred to the petition as one filed under section 203(b)(1)(B) of the Act, 8 U.S.C. § 1101(b)(1)(B).