

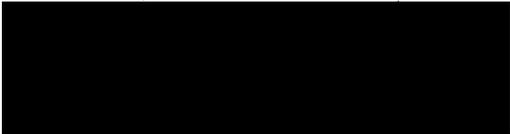


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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File:



Office: CALIFORNIA SERVICE CENTER

Date:

28 JAN 2002

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

IN BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 the Service 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Helen E. Crawford for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, California Service Center. On the basis of new information received and on further review of the record, the director determined that the beneficiary was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and her reasons therefore, and ultimately revoked the approval of the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a butcher shop. It seeks to employ the beneficiary permanently in the United States as a meat butcher. As required by statute, the petition was accompanied by certification from the Department of Labor.

The petition was approved on August 27, 1995. The director stated that an investigation was conducted, and after consideration, the approval of the petition was revoked on February 13, 2001. The revocation was based on the finding that the beneficiary's previous place of work was found to be non-existent.

The director, in her revocation notice, stated in pertinent part that:

A consular investigation in Mexico reveals that the market, address and number given by the beneficiary as his previous place of work in Mexico, was found to be non-existent. According to the submitted employment letter, the beneficiary obtained his experience as a butcher from a market called [REDACTED]. The employment letter was signed by its purported owner, [REDACTED] and was typed in the Market's official letterhead. The letter was translated by "Dennis Villalobos, who appears to have work (sic) for an entity called Hispanic Legal Services.

On appeal, the petitioner reiterates his argument that:

The Service has chose (sic) to ignore the fact that [the beneficiary] qualifies for the classification sought based on the involuntary error by the agent. [The beneficiary] did, in fact, work as a butcher for [REDACTED] at Interior Mercado Cuanhtemoc L-No.80, Ciudad Lazaro Cardenas, Michoacan, C.P.00959, Mexico, phone number 01 755 79504, from May 9, 1998 to August 14, 1993. [The beneficiary's] experience was the basis for Fiesta Imperial Meat Market to file the application for alien employment certification on his behalf. We knew at all times that [the beneficiary] has acquired the experience as a butcher in his native

country. However, at the time we filed the application, we did not have any information as to who the previous employer was. It is [REDACTED] contention that we, not [the beneficiary] should be punished for something neither has a participation in. There was never a deliberate attempt on our part to misrepresent a material fact in this case.

The petitioner's argument is not persuasive. No additional evidence of the beneficiary's experience has been submitted.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. Matter of Ho, 19 I&N Dec. 582 (BIA 1988).

Upon review, the petitioner has been unable to present sufficient evidence to overcome the findings of the director in her decision to revoke the approval of the petition. The petitioner has not established eligibility pursuant to section 203(b)(3)(A)(i) of the Act and the petition may not be approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.