

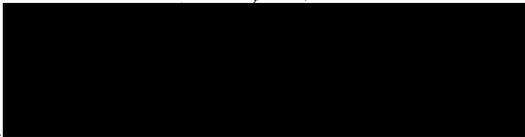
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U.S. Department of Homeland Security
Citizenship and Immigration Services

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invasion of personal privacy*

OFFICE OF ADMINISTRATIVE APPEALS
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



File:  Office: TEXAS SERVICE CENTER

Date: DEC 23 2003

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as an Other Worker Pursuant to Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(iii).

ON 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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The beneficiary, who is employed by Piccadilly Cafeterias, Inc., filed the present petition on his own behalf. The beneficiary seeks classification as an "other worker" pursuant to section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii). The director denied the immigrant visa petition because the beneficiary signed the petition instead of the United States employer, and because the petition was not accompanied by an approved labor certification as required by 8 C.F.R. § 204.5(1)(3)(i).

The regulation at 8 C.F.R. § 103.1(f)(3)(iii) states in pertinent part:

In addition, the AAO exercises appellate jurisdiction over decisions on;

* * *

(B) Petitions for immigrant visa classification based on employment or as a special immigrant or entrepreneur under §§ 204.5 and 204.6 of this chapter except when the denial is based upon lack of a certification by the Secretary of Labor under section 212(a)(5)(A) of the Act

As there is no appeal available when a decision is based on a lack of labor certification, this appeal must be rejected.

ORDER: The appeal is rejected.