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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

[REDACTED]

File: [REDACTED] Office: Vermont Service Center

Date: JUL 21 2003

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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)

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied, reopened, and denied again by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal, affirming the director's decision. The matter is now before the AAO on a motion to reopen or reconsider. The motion will be dismissed, the previous decisions of the director and AAO will be affirmed, and the petition will be denied.

The petitioner is an automobile service station. It seeks classification of the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3), and it seeks to employ the beneficiary permanently in the United States as an automotive mechanic. The director determined that the petitioner had not established that it had the financial ability to pay the beneficiary the proffered wage. The AAO affirmed that decision, dismissing the appeal.

On motion, the petitioner states that the decision of the AAO was wrong and that he is able to pay the proffered wage. The petitioner implied, but did not state, that an attorney who represented the petitioner's interests in this matter failed to represent them effectively.

8 C.F.R. § 103.5(a) states, in pertinent part:

(2) *Requirements for a motion to reopen.* A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

(3) *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed.

In this instance, the petitioner states no new facts supported by affidavits or documentary evidence. As such, the motion does not meet the requirements applicable to a motion to reopen.

The petitioner cites no precedent decisions to establish that the decision of denial was based on an incorrect application of law or Service policy and that the decision was incorrect based on the evidence of record at the time that decision was rendered. As such, the motion does not meet the requirements applicable to a motion to reconsider.

Because the motion does not meet applicable requirements, it shall be dismissed pursuant to 8 C.F.R. § 103.5(a)(4). The previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion is dismissed. The AAO's decision of May 14, 2002 is affirmed. The petition remains denied.