

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

FILE: LIN 02 287 50064 Office: NEBRASKA SERVICE CENTER Date: JUL 27 2004

IN RE: Petitioner:
Beneficiary:

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

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, Director
Administrative Appeals Office

DISCUSSION: The employment based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary as an employment based immigrant pursuant to section 203(b)(3) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3), as a skilled worker or professional. The petitioner distributes hydraulic products. It seeks to employ the beneficiary permanently in the United States as a mechanical engineer. As required by statute, the petition is accompanied by an individual labor certification approved by the Department of Labor.

The director determined that the petitioner had not established that the beneficiary met the requirements of the position as required by the labor certification.

The petitioner filed an appeal on April 23, 2003. Part 2 of the appeal form (I-290B Notice of Appeal) indicates that the petitioner will send a brief and/or evidence to the AAO within 120 days. Of this date, more than 15 months later, this office has received nothing further. The statement in Part 3 of the appeal form reads, in its entirety:

1. We are making efforts through the American Embassy in Iran and the local Linde representative in Tehran to secure the transcript and diploma for Mr. Taghaboni.
2. INS is inconsistent in their application of the rules re: evidence of a degree. Information provided was sufficient for H1B application and insufficient for immigrant petition for alien worker.

While counsel states that Citizenship and Immigration Services (CIS) is inconsistent in applying its rules concerning evidence of a degree, he should note that the evaluation in the record used the rule to equate three years of experience for one year of education, but the regulation permitting such equivalence applies to non-immigrant H1B petitions, not to immigrant petitions. The labor certification requires a bachelor of science degree and four years of college without reference to accepting anything "equivalent" to such a degree. A U.S. baccalaureate degree is generally found to require four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg. Comm. 1977). The petitioner's actual minimum requirements could have been clarified or changed before the Form ETA 750 was certified by the Department of Labor.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[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.

In this case, the bare assertion of error is not a sufficient basis for a substantive appeal. It does not specifically address errors in the director's decision.

As the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.