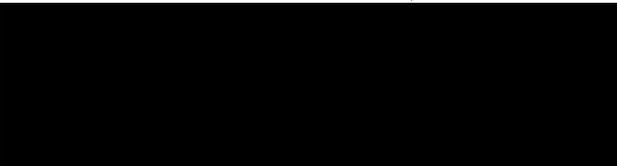


**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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

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



File: WAC 01 218 53153 Office: CALIFORNIA SERVICE CENTER

Date: **MAR 31 2004**

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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and is now ostensibly before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director determined that the petition in this matter could not be approved because it was not accompanied by the required Form ETA 750 Application for Alien Employment Certification approved by the Department of Labor, by an application for Schedule A designation, or by documentation to establish that the alien qualifies for one of the shortage occupations in the Department of Labor's Labor Market Information Pilot Program, 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:

Appellate Authorities. In addition, the [Administrative Appeals Office] 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 of the petition is based upon lack of a certification by the Secretary of Labor under section 212(a)(5)(A) of the Act.

This office has no jurisdiction over a petition denied based upon lack of a labor certification. As the petition in this matter was denied for that reason, among others, this office has no jurisdiction and the appeal must be rejected.

This office further notes that the petitioner's statement on appeal contains no assignment of error. Therefore, if the appeal were not rejected, it would be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is rejected.