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U.S. Department of Homeland Security
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Washington, DC 20536

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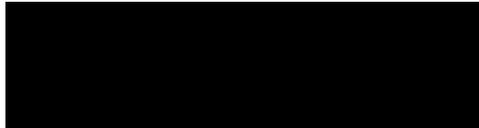
**U.S. Citizenship
and Immigration
Services**



FILE: EAC 01 229 55906 Office: VERMONT SERVICE CENTER

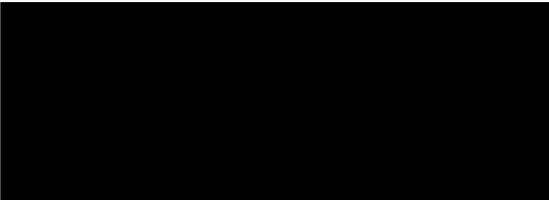
Date: **MAR 18 2004**

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:



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, Vermont 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. The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a specialty cook. 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 it had the financial ability to pay the beneficiary the proffered wage as of the January 13, 1998 priority date of the visa petition. In his denial, the director noted that the petitioner had failed to adequately respond to the director's request for evidence issued on March 12, 2002.

Counsel filed an appeal on September 23, 2002. 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 30 days. The statement in Part 3 of the appeal form reads, in its entirety: "INS erred as a matter of fact and law."

On October 24, 2002, counsel submitted a packet of materials accompanied by a cover letter that advised:

1. Copy of Form I-290B which was submitted to [CIS] on September 23, 2002;
2. Copy of the beneficiary's W-2 statements for 1997 and 1999;
3. Copy of the petitioner's tax returns for 1997, 1998, 1999, 2000, 2001.

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 and recitation of evidence submitted on appeal is not a sufficient basis for a substantive appeal. It does not specifically address errors in the director's decision.

As counsel 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 dismissed.