



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: WAC 03 012 51095 Office: CALIFORNIA SERVICE CENTER Date: OCT 07 2004

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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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

C [REDACTED]

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

The petitioner is a dental office/laboratory that sought to employ the beneficiary permanently in the United States as a dental ceramist. The director denied the petition on July 21, 2003, based on a lack of an approved labor certification issued by the Department of Labor (DOL) to the petitioner.

An appeal was filed on August 1, 2003.¹ Although the director's decision advised the petitioner that an appeal was available, that information was in error. The AAO has no jurisdiction over this appeal. The AAO has only that authority specifically granted to it by the Secretary of the United States Department of Homeland Security (DHS). See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2004). The jurisdiction of the AAO extends only to those matters described in 8 C.F.R. § 103.1(f)(3)(E)(iii), in effect on February 28, 2003. See DHS Delegation Number 01.50.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv). It does not include a denial of a petition based upon a lack of certification by the Secretary of Labor under section 212(a)(5)(A) of the Act. See 8 C.F.R. § 103.1(f)(3)(iii)(B) (2003 ed.).

The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case, the service center director. See 8 C.F.R. § 103.5(a)(1)(ii).

Accordingly, the petitioner's appeal is rejected based on a lack of AAO jurisdiction.

ORDER: The petitioner's appeal is rejected.

¹ The appeal was filed by an attorney who has not filed a Form G-28, Notice of Entry of Appearance as Attorney or Representative, on behalf of the petitioner named in the Immigrant Petition for Alien Worker (I-140). The only G-28 contained in the record reflects that the attorney represents an entity that is unrelated to the petitioner. As the attorney initially submitted the petition and accompanying documentation, a copy of this decision will be provided to her, but the petitioner will be treated as representing itself.