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U.S. Citizenship
and Immigration
Services

BF



FILE: WAC 02 194 51806 Office: CALIFORNIA SERVICE CENTER

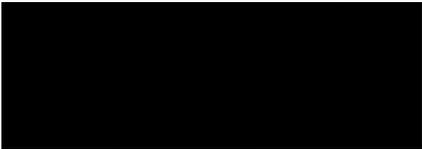
Date: JUN 07 2005

IN RE: Petitioner:
Beneficiary:

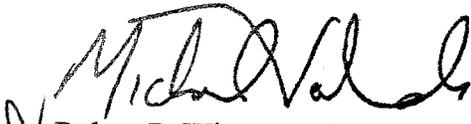


PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



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

* THIS IS A CONSOLIDATION OF TWO APPEALS

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeals will be dismissed.

The petitioner seeks to classify the beneficiary 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 director denied the petition on January 30, 2004. The director found the petitioner failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date.

Counsel filed two appeals of that decision, only one of which was timely¹.

As a reason for the timely appeal, counsel requested an additional 30 days to submit a brief and/or additional evidence, and, he stated:

“The evidence submitted establishes that the petitioner has the ability to pay the wages of the beneficiary.”

As a reason for the untimely appeal², counsel requested an additional 30 days to submit a brief and/or additional evidence, and, he stated:

“Pursuant to the Immigration Services decision, beg leave to submit:

- A. The petitioner’s outstanding balance of \$304,016.15 of the bank account indicating the actual transactions on a day to day basis.
- B. To document Petitioner’s ability to pay the proposed wages beginning in 2001.”

Petitioner will strive to adduce the evidence adverted to above....”

Since no brief was received by the AAO, a facsimile transmission (fax) was sent to counsel dated May 27, 2005, requesting “...a copy of additional evidence and/or a brief be sent to the Administrative Appeals Office by mail or fax within five business days.”

As of this date 15 months after the appeal, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusions of law or statement of fact for the appeal.

The petitioner here has not specifically addressed the reasons stated for denial; it has not provided any additional evidence; and, one of its appeals is untimely.

¹ Petitioner’s appeal dated March 10, 2004, of the director’s decision dated February 10, 2004, identified in the records of the U. S. Citizenship and Immigration Services as WAC 02-194-51806. This appeal filed by counsel was received by the Service on March 16, 2004, 36 days after the date of the decision denying the petition.

² Petitioner’s appeal dated March 8, 2004, of the director’s decision dated February 10, 2004, identified in the records of the U. S. Citizenship and Immigration Services as WAC 04-118-51382. This appeal was filed by the petitioner (without counsel), and, it was received timely on March 9, 2004.

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Counsel has erroneously filed two appeals of the same denial of the same preference visa petition. The appeals are consolidated for purposes of adjudication.

For the reasons above stated, they must be summarily dismissed.

ORDER: The appeals are dismissed.