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U.S. Department of Homeland Security
20 Mass. Rm. A3042
Washington, DC 20529



U.S. Citizenship
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Services

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BC

FILE: EAC 02 218 50193 Office: VERMONT SERVICE CENTER

Date: MAR 25 2005

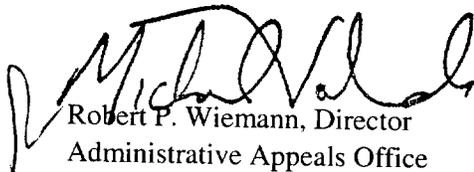
IN RE: Petitioner:
Beneficiary:

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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily 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 or professional. The petitioner is a landscape business. It seeks to employ the beneficiary permanently in the United States as a landscape gardener. As required by statute, a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor, accompanies the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition.

On appeal, counsel indicates that he would submit a brief and/or evidence to the Administrative Appeals Office (AAO) within 30 days. Counsel states, "The BCIS overlooked that petitioner had sufficient income and assets to be able to pay the beneficiary the prevailing wage in 2001, the year of filing of the ETA 750."

Counsel dated the appeal July 28, 2003. As of this date, more than 19 months later, the AAO has received nothing further.

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, especially since in the notice of decision; the director did discuss the petitioner's net income and current assets for 2001. 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.