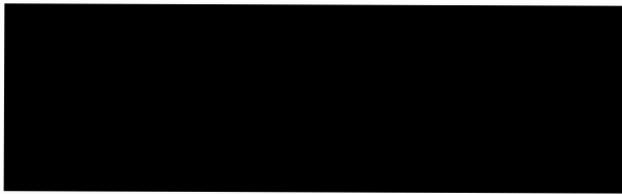




U.S. Citizenship
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Services

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prevent clearly unwarranted
invasion of personal privacy
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FILE: EAC 03 176 52106

Office: VERMONT SERVICE CENTER

Date: **APR 11 2006**

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:

DEBBI L KLOPMAN ESQ
131 SHOREWARD DR
GREAT NECK NY 11021

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 Acting Director, Vermont Service Center, denied the preference visa petition that is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook. The acting 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 and denied the petition accordingly.

The petitioner has retained two attorneys during the pendency of this visa petition. Both filed correctly executed Form G-28 Notices of Entry of Appearance. This office will recognize the second attorney as the petitioner's current attorney of record. All representations will be considered, but the decision in this matter will be furnished only to the petitioner and its attorney of record.

Counsel submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, previous counsel inserts,

The decision of [CIS] denying the I-140 petition was incorrect. The only reason for the denial was an issue relating to the ability of the petitioner to pay the proffered wage at the time of filing. The petitioner had the ability to pay the proffered wage when the application process first commenced and the petitioner still has the ability to pay the proffered wage. A separate brief with evidence will be submitted within thirty days under separate cover.

On the form appeal previous counsel indicated that he would provide a brief or evidence within 30 days. No brief or evidence was submitted, either with the form appeal or subsequently. On February 27, 2006 this office sent present counsel a facsimile transmission asking whether she had submitted any such information, argument, or documentation. Counsel did not respond to that facsimile.

Previous counsel's statement on appeal contains no specific assignment of error. Alleging that the acting director erred in some unspecified way is an insufficient basis for an appeal. No additional argument or evidence was submitted on appeal by either counsel or the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An 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."

Counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.