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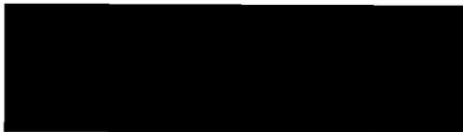
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FILE: WAC 02 136 52224 Office: CALIFORNIA SERVICE CENTER Date: DEC 06 2006

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:

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the instant preference visa petition. Pursuant to an appeal the Administrative Appeals Office (AAO) remanded the matter. The director denied the petition again and certified the matter to the AAO. The decision of denial will be affirmed.

The petitioner is a nurse registry. It seeks to employ the beneficiary permanently in the United States as a registered nurse. As required by statute, a Form ETA 750, Application for Alien Employment Certification accompanied the petition. In the more recent decision the director determined that the petitioner had not responded to a request for evidence and denied the petition pursuant to 8 C.F.R. § 103.2(b)(13).

Section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i), provides for granting preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

Section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii), provides for granting preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

The regulation at 8 C.F.R. § 103.2(b)(13) states, in pertinent part,

Effect of failure to respond to request for evidence or appearance. If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

The Form I-140 petition in this matter was submitted on March 15, 2002. On October 22, 2002 the Director, California Service Center denied the petition. The petitioner appealed on November 25, 2002, which appeal was addressed by the AAO on February 14, 2005. The AAO remanded the matter for further action.

On March 16, 2006 the director issued a request for evidence to the petitioner through counsel. Counsel responded with a letter notifying Citizenship and Immigration Services that he had withdrawn as counsel of record.

On April 27, 2006 the director issued a request for evidence to the petitioner. The petitioner was accorded until July 20, 2006 to respond, but did not respond during that time. On October 24, 2006 the Director, California Service Center denied the petition as abandoned in accordance with 8 C.F.R. § 103.2(b)(13) and certified the matter to the AAO for review.

The petitioner failed to respond to the request for evidence within the allotted time and the petition was correctly denied on that basis pursuant to 8 C.F.R. § 103.2(b)(13).

ORDER: The decision of denial is affirmed.