

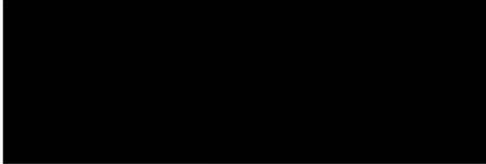
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**U.S. Citizenship
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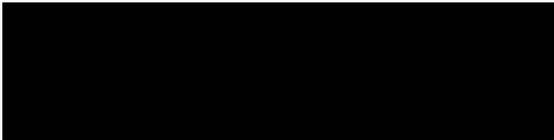


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 19 2006
WAC 03 089 51408

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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.

A handwritten signature in black ink, appearing to read "Michael Valdez".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the California 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 an Indian/ethnic restaurant. It seeks to employ the beneficiary permanently in the United States as a cook, specialty foreign food. 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 its continuing ability to pay the proffered wage from the priority date of October 27, 2000.

On appeal, counsel requests an additional thirty days to file a brief. However, as of this date, more than twenty four months later, this office has not received a brief or additional evidence from counsel. In fact, in response to a fax requesting that the brief or additional evidence be sent to this office within five business days, counsel states that he did not file a brief or evidence in support of this appeal. Counsel states, "We contacted [Citizenship and Immigration Services (CIS)] today to inquire about the case and were informed by the Duty Officer that the I-140 petition had, in fact, been denied on February 10, 2004. We have requested a copy of the denial notice, in order to address the specific issues [CIS] raised and prepare an appropriate response. We hereby respectfully request a period of 30 days, within which, we will be submitting documentation in support of this appeal."

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 by counsel is not a sufficient basis for a substantive appeal. Counsel's assertion 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.