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**U.S. Citizenship
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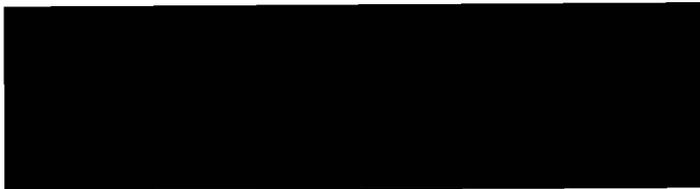


FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: SEP 05 2006
EAC 04 008 51625

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

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:



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 employment-based immigrant visa petition was denied by the Acting Center Director (director), Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a restaurant. It sought to employ the beneficiary permanently in the United States as a cook. The director determined that the petitioner failed to establish that it had the continuing financial ability to pay the proffered wage as of the priority date and denied the petition.

The petitioner filed an appeal on August 20, 2004. A review of CIS electronic records indicates that, subsequent to the filing of this petition and appeal, the petitioner ([REDACTED]) filed another immigrant visa petition on behalf of the beneficiary. Because the other preference petition has been approved and the underlying priority date of April 27, 2001, is the same as in this case, no further immigration benefit is available from the adjudication of this appeal. Further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed, based on the approval of another immigrant visa petition for the same visa classification.