

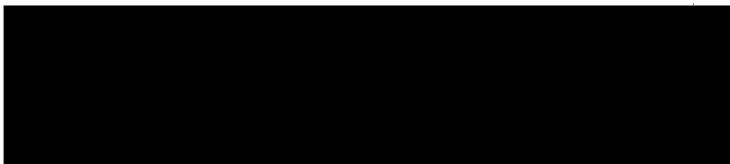


U.S. Citizenship
and Immigration
Services

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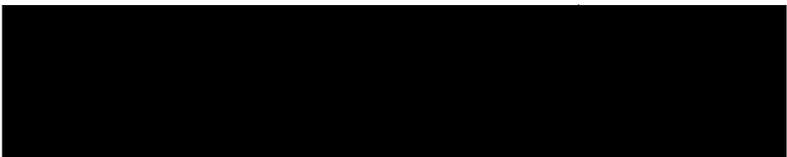


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: APR 23 2007
WAC 03 072 51972

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 preference visa petition was denied by the Director, California Service Center. The petitioner appealed the director's decision. The Administrative Appeals Office (AAO) remanded the case to the director. The director denied the petition and invalidated the labor certification. The petitioner filed an appeal of that decision to the AAO. The case will be remanded.¹

The petitioner is a health care facility. It seeks to employ the beneficiary permanently in the United States as a medical records technician. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the U.S. Department of Labor. The director, *inter alia*, invalidated the labor certification based upon a finding that it had been procured by fraud or willful misrepresentation. The director then denied the petition because it was no longer supported by a valid labor certification.

On appeal, counsel submits a brief and additional evidence.

The AAO remands the case to the director in order that he considers the evidence submitted and issue a new decision, which if adverse to the petitioner, is certified to the AAO for final review.²

ORDER: The petition is remanded to the director.

¹ The chronological progression of this case is as follows: the I-140 petition was filed on December 30, 2002; the director denied the petition on October 1, 2003; the petitioner appealed the director's decision on October 31, 2003; the AAO remanded the case to the director on April 13, 2005; the director denied the petition and invalidated the labor certification on June 15, 2005; the petitioner filed an appeal on July 8, 2005, and, on September 1, 2005 the petitioner filed a legal brief in the matter.

² We note parenthetically that there has been a determination of fraud in this case by both the AAO in its decision resulting in a remand dated April 13, 2005, and also by the director in his decision dated June 15, 2005. Counsel is correct in his contention that the director's decision was issued without further requests for evidence and that the petitioner under the circumstances of this case should have the opportunity to present new evidence as well as case precedent to rebut the above findings.