

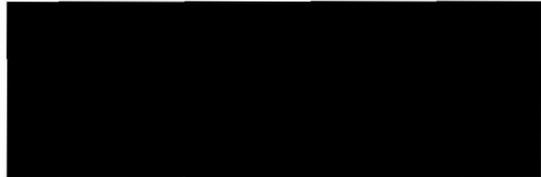
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U.S. Citizenship
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: DEC 03 2007
EAC 06 104 51662

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: 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 preference visa petition was denied by the Acting Center Director (director), Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a software development and consultancy firm. It seeks to employ the beneficiary permanently in the United States as a systems administrator. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. The director determined that the petitioner had not established that the beneficiary possesses the requisite educational credentials as of the priority date of the visa petition and denied the petition accordingly.

On appeal, the petitioner merely requests that the petition be adjudicated as a third preference (EB-3) petition rather than as a second preference (EB-2) petition.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Other than to refer to a letter that was submitted with the petition in which the petitioner had also asked that the petition be evaluated as an EB-3 petition, no additional evidence or grounds for appeal has been offered.¹

A request for another adjudication of the preference petition does not sufficiently identify a specific conclusion of law or statement of fact upon which a substantive appeal may be filed. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.

¹ The director did adjudicate the petition under the third preference professional category described in Section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii), providing for the issuance of employment based visa classification to qualified immigrants who hold baccalaureate degrees and who are members of the professions. The third preference visa classification selected on the Immigrant Petition for Alien Worker (I-140) and requested for consideration is not consistent with the minimum requirements described on items 14 and 15 of the labor certification (ETA 750) which is a Master's Degree or equivalent. The equivalency is defined in item 15 as the acceptance of a Bachelor's Degree in Computer Science, Electronics, Information System or Maths and five years of progressive experience (in lieu of a Master's and three yrs. of experience). This minimum requirement describes the visa classification set forth in sections 203(b)(2) of the Act providing for immigrant classification to members of the professions holding advanced degrees or their equivalent. An advanced degree equivalent is a degree above that of a baccalaureate. A U.S. baccalaureate degree or a foreign equivalent degree followed by five years of progressive experience in the specialty is considered to be the equivalent of a master's degree. See 8 C.F.R. § 204.5(k)(2). As the labor certification's minimum educational requirements were those for an advanced degree, it was not consistent with the third preference petition classification for a professional because the job offer portion described minimum requirements exceeding those of a professional. See 8 C.F.R. § 204.5(l)(3)(i). Regardless of the category selected, the director determined that the beneficiary's education does not meet the minimum requirements of the Form ETA750.