

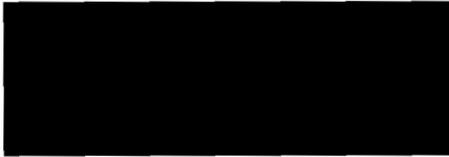


U.S. Citizenship
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Services

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File: [REDACTED] Office: VERMONT SERVICE CENTER Date: DEC 03 2007
EAC-03-174-52240

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)

IN 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 Acting Director (Director), Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a construction company. It seeks to employ the beneficiary permanently in the United States as an estimator (construction estimator) 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. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor (DOL). On July 19, 2004, the director denied the petition because the record did not establish that the petitioner had the ability to pay the proffered wage at the time of filing.

On the Form I-290B, counsel indicated that she would need 30 days to submit a brief and/or evidence to the AAO. Counsel also submitted a written request for the extra 30 days to submit a brief and/or evidence with a letter from the petitioner's accountant as evidence to support her 30 days extension request. The appeal was received by the Vermont Service Center on August 20, 2004. Since the AAO has received nothing further, the AAO sent a fax to counsel on August 30, 2007 informing counsel that no separate brief and/or evidence was received, to confirm whether or not she would send anything else in this matter, and as a courtesy, providing her with five (5) days to respond. To date, more than twelve (12) weeks later, no reply has been received.

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. On appeal, counsel submitted letters from herself and the petitioner's accountant explaining why she needed extra 30 days to submit a brief and/or evidence to the AAO, however, the record does not show that counsel for the petitioner identified specifically any erroneous conclusion of law or statement of fact for this appeal. In addition, the AAO's August 30, 2007 fax expressly informed counsel that "[f]ailure to respond to this notice within five business days may result in the summary dismissal of your appeal." Despite the AAO's correspondence, counsel has not responded. Therefore, the appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.