

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B1



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: FEB 01 2007
WAC 04 139 51103

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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the preference visa petition that is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a hospital. It seeks to employ the beneficiary permanently in the United States as a registered nurse. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition and that it had not established that the beneficiary has the requisite education as stated on the labor certification petition. The director denied the petition accordingly.

On June 30, 2005, counsel submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, counsel inserted,

THE DIRECTOR OF THE CSC ERRED IN HIS DECISION REGARDING THE FORM I-140 S [sic] ADDITIONAL TIME WAS REQUESTED TO FILE THE ADDITIONAL REQUESTED EVIDENCE. THIS WILL BE DISCUSSED IN DETAIL IN THE BRIEF SUBMITTED.

[Emphasis in the original.]

On that appeal form counsel indicated that he would file a brief or additional evidence within ten days. No such submission was subsequently received. On January 19, 2007 at 6:45 a.m. this office sent counsel a facsimile transmission inquiring whether counsel had sent a brief or additional evidence and requesting that a copy of such brief be sent by facsimile or mail to the AAO within five business days. That transmission stated, "Failure to respond to this notice within five business days may result in summary dismissal of your appeal." This office received an untimely facsimile response from counsel on January 29, 2007 in which counsel claimed to have submitted a brief, but which did not include a copy of that brief, nor proof that it had been timely submitted, as had been requested in the facsimile sent to counsel on January 19, 2007 by the AAO. Counsel's response provided no explanation as to why he did not include the brief and proof that it had been timely submitted.

Counsel's statement submitted on appeal and received by Citizenship and Immigration Services on June 30, 2005 contains no specific assignment of error. Alleging that the director erred in some unspecified way is an insufficient basis for an appeal.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An 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."

Counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.