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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
WAC 03 131 51733

Office: CALIFORNIA SERVICE CENTER

Date: JUN 25 2007

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a residential-elderly care facility. It seeks to employ the beneficiary permanently in the United States as a caregiver. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. The director determined that the petitioner had failed to establish that the beneficiary possessed the requisite employment experience as set forth on the ETA 750 and denied the petition accordingly.

Counsel filed an appeal on August 23, 2004. "Please see attached documentation" is stated in Part 3 as a reason for the appeal. The attached documentation is a letter from counsel stating that he has recently been retained and that the record of the case is not available to him through either the petitioner or beneficiary. He indicates that he has filed a request for the record under the Freedom of Information Act (FOIA), and that additional time is needed to obtain the record. On Part 2 of the notice of appeal, counsel also indicates that he requires an additional 90 days to submit a brief and/or evidence to this office.

In subsequent correspondence, counsel indicates that the FOIA process has been delayed and requests additional time. In response to a recent facsimile inquiry, counsel indicates that upon his review of the FOIA response, he will not be providing any further submission to the AAO.

The regulation at 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.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or statement of fact as a basis for the appeal, the regulation mandates the summary dismissal of the appeal.

ORDER: The appeal is dismissed.