

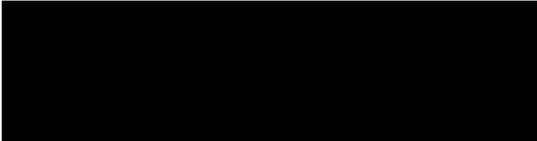


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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: WAC-99-182-52057

Office: California Service Center

Date: 22 APR 2002

IN RE: Petitioner:

Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and the Associate Commissioner for Examinations dismissed a subsequent appeal. The matter is now before the Associate Commissioner on motion. The motion will be dismissed.

The Administrative Appeals Office ("AAO") dismissed the appeal on April 23, 2001, because the appeal was frivolous. The petitioner had requested an extension of 90 days in which to submit additional evidence from the United Kingdom but, more than 16 months later, had failed to do so.

On motion, the petitioner now argues the merits of the underlying petition. The only discussion of the basis of the AAO's decision is the petitioner's assertion, "not being conversant with, and understanding of the 'system,' I did not fully appreciate it was a requirement to express disagreement with the director's decision."

The determination of whether to reopen or reconsider an AAO decision is limited to the question of whether the AAO decision was correct at the time it was made; for a decision based on procedural grounds, only procedural arguments are relevant. The petitioner makes no claim that he had in fact submitted new evidence prior to April 23, 2001. Therefore, the AAO's decision will not be disturbed.

ORDER: The motion is dismissed.