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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090

U.S. Citizenship  
and Immigration  
Services

B6

[REDACTED]

FILE: [REDACTED]  
SRC 07 147 52778

Office: TEXAS SERVICE CENTER

Date: AUG 05 2009

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner claims to be a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook. The petitioner requests classification of the beneficiary as a skilled worker pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3). As required by 8 C.F.R. § 204.5(l)(3), the petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), approved by the Department of Labor (DOL).

The director denied the petition on October 9, 2007 because the petitioner failed to establish its ability to pay the proffered wage.

On Part 3 of Form I-290B, Notice of Appeal or Motion, the petitioner states the basis of the appeal as follows:

I am living in a very small town in Oregon. It is hard for me to hire cooks from our community and the surrounding area. I am getting old and cannot handle my business very well. If I cannot get help from overseas in the near future, my business will get wor[se] or even be for[c]ed to close down [due] to the shortage of cooks.

We are living in the living quarter[s] of the restaurant. We don't have to pay the rent. We live here and eat here at the restaurant. The living expenses for us [are] limited.

On Part 2 of Form I-290B, the petitioner indicates that no supplemental brief and/or additional evidence would be submitted. The petitioner provided no additional evidence with Form I-290B.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states that the AAO "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 the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

The petitioner fails to specifically identify why the director's decision was factually or legally erroneous. Consequently, the appeal must be dismissed.<sup>1</sup>

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<sup>1</sup>It is also noted that the beneficiary has not signed the certified ETA Form 9089 submitted with the petition. USCIS will not approve a petition unless it is supported by an original certified ETA Form 9089 that has been signed by the employer, beneficiary, attorney and/or agent. *See* 20 C.F.R. § 656.17(a)(1).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met this burden.

**ORDER:** The appeal is summarily dismissed.