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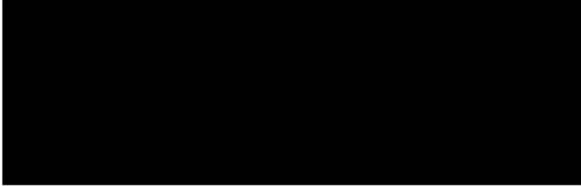
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

MAR 04 2009

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IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker Pursuant to Section 203(b)(3) of the Immigrant 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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the third preference visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a catering firm. It seeks to employ the beneficiary permanently in the United States as a cook. As required by statute, a labor certification approved by the Department of Labor accompanied the petition. The director determined that the petitioner had failed to submit all of the required initial evidence pursuant to 8 C.F.R. § 103.2(b)(8) and denied the petition accordingly.

The Form I-290B appellate form was filed and signed by the beneficiary. U.S. Citizenship and Immigration Services' (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).¹

ORDER: The appeal is rejected as improperly filed.

¹ The appeal (with fee) was also erroneously filed with the AAO, which returned the documents. The regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the appeal with the office where the unfavorable decision was made within 30 days after service of the unfavorable decision. Here, that was the Nebraska Service Center. The director's decision advised the petitioner of these requirements. The director subsequently received the appeal on October 15, 2008, or eight days after the deadline.