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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

FILE:

Office: TEXAS SERVICE CENTER

Date: **SEP 22 2010**

IN RE:

Petitioner:

Beneficiary:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center on November 6, 2008. The petitioner filed a motion to reopen/reconsider the decision on December 5, 2008, which the director denied on March 10, 2009. The petitioner then appealed the decision to the Administrative Appeals Office (AAO) on April 2, 2009. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3) as a professional or skilled worker. The director determined that the petitioner had failed to demonstrate that the beneficiary possessed the requisite education in the correct field for the position from the priority date of October 19, 2006.

Both with its motion to reopen/reconsider and its appeal, the petitioner submitted evidence regarding the beneficiary's educational background. The AAO finds that the Texas Service Center's decision to deny the motion to reopen/reconsider due to the beneficiary's lack of a degree in the proper field was well founded. Notwithstanding, the petitioner filed a subsequent appeal with the AAO.

The AAO finds that the director properly adjudicated the motion to reopen pursuant to section 203(b)(3) of the Act. Since the director's decision was not in error, the petitioner is precluded from requesting an appeal with the AAO. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.