



U.S. Citizenship
and Immigration
Services



B6

DATE: OCT 22 2012

OFFICE: TEXAS SERVICE CENTER

FILE:



IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Skilled Worker Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

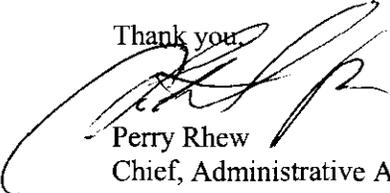


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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. The matter is now before the Administrative Appeals Office (AAO) on appeal. 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 skilled worker. The director denied the petition after determining that the petitioner failed to demonstrate that it had the continuing financial ability to pay the proffered wage in accordance with 8 C.F.R. § 204.5(g)(2) as the petitioner failed to submit the required evidence to establish its ability to pay the proffered wage in the year of the priority date, 2008, as well as evidence for 2010. The director also observed that it was unclear if the job offer was *bona fide*.

On appeal, counsel merely stated that the denial was based on a lack of documents, which were not requested and the unfounded intention that the beneficiary would not leave his job to work for the petitioner. Counsel added that documents and a brief would be filed within 30 days. On Part 2.B of the Form I-290B, Notice of Appeal or Motion, it is also indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days.

Counsel dated the appeal October 7, 2011. As of this date, more than 12 months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not addressed in any detail the decision rendered by the director and no brief or additional evidence has been submitted. Without the missing evidence related to the petitioner's ability to pay the proffered wage identified by the director, the petitioner cannot overcome the basis for the petition's dismissal. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.