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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DATE: AUG 06 2013

OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a Commonwealth of the Northern Mariana Islands (CNMI) Only Nonimmigrant Transitional Worker Classification Pursuant to 48 U.S.C. § 1806(d)

ON BEHALF OF PETITIONER:

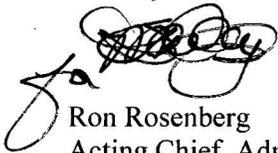
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner submitted a Petition for a CNMI-Only Nonimmigrant Transitional Worker (Form I-129CW) to the California Service Center on December 9, 2011. In the Form I-129CW visa petition, the petitioner describes itself as a tourist resort consisting of a hotel, spa, kart, golf course and restaurant that was established in 1975. In order to employ the beneficiary in what it designates as a mechanic position, the petitioner seeks to classify him as a CNMI-Only Nonimmigrant Transitional Worker (CW-1) pursuant to 48 U.S.C. § 1806(d).

The director denied the petition on January 23, 2013, finding that the petitioner failed to establish that the beneficiary was lawfully present in the Commonwealth of the Northern Mariana Islands (CNMI) at the time the petition was filed.

On February 14, 2013, the petitioner submitted a Notice of Appeal or Motion (Form I-290B) and checked Box A in Part 2 of the form to indicate that it was filing an appeal and that a brief and/or additional evidence was attached.

The petitioner provided the following statement at Part 3 of the Form I-290B:

[The beneficiary] failed to pick up his UMBRELLA PERMIT at Commonwealth of Northern Mariana Islands, Department of Labor [in] November 2009.

[The petitioner] will provide prove [sic] of verification of UMBRELLA PERMIT ATTACHED

[The petitioner] will provide prove [sic] that [the beneficiary] being employed within the company for that period of time 11/27/2011 to present by providing pay roll history.

The petitioner submitted several documents with the appeal.¹ Specifically, the petitioner provided: (1)

¹ With the appeal, the petitioner submitted additional evidence. With regard to the evidence submitted on appeal that was previously requested by the director's RFE, the AAO notes that this evidence is outside the scope of the appeal. The regulations indicate that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary in the adjudication of the petition. See 8 C.F.R. §§ 103.2(b)(8); 214.2(h)(9)(i). The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. See 8 C.F.R. § 103.2(b)(1), (8), and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); see also *Matter of Obaighbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted it with the initial petition or in response to the director's request for evidence. *Id.* The petitioner

a copy of a work permit issued by the CNMI Department of Labor, Division of Labor to the beneficiary with validity dates of July 7, 2009 to June 4, 2011 (previously submitted); (2) a letter entitled "Verification of Umbrella Permit" dated February 6, 2013 from [REDACTED], Manager, Labor Enforcement Office of the CNMI Department of Labor stating that the beneficiary failed to pick up his umbrella permit in 2009; and (3) a printout from [REDACTED] entitled "Payroll Check History [for the beneficiary]" (portions of which were previously submitted).

The AAO fully and in-detail reviewed the Form I-290B and the evidence submitted in support of the appeal. The AAO observes that the petitioner's statement on appeal does not identify any errors in the director's decision. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken 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 (emphasis added)."² In the instant case, the petitioner fails to identify specifically any erroneous conclusion of law or statement of fact as a basis for the appeal. Thus, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).³

ORDER: The appeal is summarily dismissed.

has not provided a valid reason for not previously submitting the evidence. Under the circumstances, the AAO need not consider the sufficiency of such evidence requested in the RFE but submitted for the first time on appeal. Nevertheless, the AAO reviewed this evidence submitted by the petitioner but, notes that the evidence submitted on appeal does not overcome the basis for denial of the petition. The documentation does not establish that the beneficiary was lawfully present in the CNMI at the time the petition was filed.

² The petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. 8 C.F.R. § 103.2(b)(1).

³ It must be noted that U.S. Citizenship and Immigration Services does not have the discretion to disregard regulations, even if it would benefit a petitioner. *See Reuters Ltd. v. F.C.C.*, 781 F.2d 946 (C.A.D.C. 1986) (an agency must adhere to its own rules and regulations; ad hoc departures from those rules, even to achieve laudable aims, cannot be sanctioned).