



U.S. Citizenship
and Immigration
Services

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FILE: WAC 99 109 51792 Office: CALIFORNIA SERVICE CENTER Date: JUL 14 2006

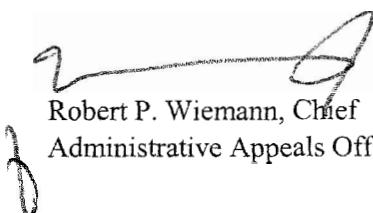
IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If you wish to file a motion to reopen, it must be filed within 30 days of the date of this decision, 33 days if the decision is mailed, with a fee of \$385.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal due to abandonment.

The director denied the petition on April 1, 1999 for failure to establish that a qualifying relationship existed between the petitioner and the foreign entity. On April 29, 1999, counsel for the petitioner filed Form I-290B, accompanied by a brief and additional evidence, with the California Service Center. Upon review of the record, the Service Center noted that the subject file had been lost, and requested that the petitioner submit a reconstructed petition and all supporting documentation, including the director's denial, in order to reconstruct the missing file. This request was generated on December 13, 2001, and was mailed to the petitioner's counsel.

A second request for a reconstructed petition and supporting documents was mailed to the address on file on November 4, 2002. The request specifically required the petitioner to submit the requested documentation by January 27, 2003. This correspondence was returned to the Service Center marked "undeliverable as addressed."

Pursuant to 8 C.F.R. § 103.2(b)(8), the petitioner was given notice of the evidence required to process the appeal on two separate occasions, and was granted twelve weeks to respond to the formal request issued on November 4, 2003. Since the petitioner did not respond to the requested within the allotted time period, the petition is considered abandoned and hereby denied pursuant to 8 C.F.R. § 103.2(b)(13).

A denial due to abandonment may not be appealed. However, there are limited motion rights. The petitioner may file a motion to reopen a petition or application denied due to abandonment with evidence that the decision was in error because:

1. The requested evidence was not material to the issue of eligibility;
2. The required initial evidence was submitted with the application or petition, or the request for initial evidence or additional information or appearance was complied with during the allotted period; or
3. The request for additional information or appearance was sent to an address other than that on the application, petition, or notice of representation, or that the applicant or petitioner advised Citizenship and Immigration Services (CIS), in writing, of a change of address or a change of representation subsequent to filing and before CIS's request was sent, and the request did not go to the new address.

ORDER: The petition is considered abandoned. The appeal is rejected.