

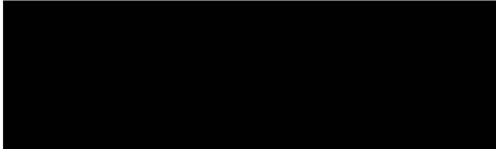


U.S. Citizenship
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FILE: LIN 05 132 52170 Office: NEBRASKA SERVICE CENTER Date: MAY 25 2006

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:
[Redacted]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

On the Form I-140 petition, the petitioner indicated that he sought classification pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act) as an alien of extraordinary ability. Counsel did not attach a cover letter to the petition addressing the classification sought. The petition was accompanied by certification from the Department of Labor.

The director did not issue a request for additional evidence or otherwise request any clarification. Rather, she concluded that the petitioner's occupation, crew supervisor, was not a field of endeavor that might qualify under the classification sought. On appeal, counsel asserts that the petitioner should be permitted to seek eligibility under a lesser classification as was permitted in another matter. Counsel submits a request for evidence issued in relation to another petition filed under the extraordinary ability classification with certification from the Department of Labor. As labor certification is not required for classification pursuant to section 203(b)(1)(A) of the Act, the request issued in the unrelated case inquired as to whether the petitioner marked the classification in error.

While the director may request clarification as to the classification sought, counsel cites no authority requiring the director to consider a petition under a lesser classification than the one checked on the petition. The request for evidence relating to a separate petition submitted on appeal is addressed to an employer, not an alien self-petitioner. In the matter before us, the petitioner is self-petitioning.¹ An alien may not self-petition under the lesser classifications set forth at section 203(b)(3) of the Act and section 203(b)(2) of the Act.² See 8 C.F.R. § 204.5(c). As such, allowing the petitioner to amend the classification sought would not have benefited the self-petitioner in this matter as he is not able to self-petition for the lesser classifications that require a labor certification.

ORDER: The appeal is dismissed.

¹ In Part 1 of the petition, the petitioner listed the name of his employer. The petitioner, however, signed the petition individually. The record contains no evidence that the petitioner is a representative of his employer such that he can sign the petition on his employer's behalf.

² Section 203(b)(3) includes professionals, skilled workers and other workers. Section 203(b)(2) includes advanced degree professionals and aliens of exceptional ability. Only those aliens seeking a waiver of the job offer (certification from the Department of Labor) in the national interest may self-petition under section 203(b)(2) of the Act.