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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

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[REDACTED]

DATE: **MAR 05 2012** Office: TEXAS SERVICE CENTER

FILE: [REDACTED]

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:

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition on November 27, 2009. The Administrative Appeals Office (AAO) dismissed the petitioner's appeal of that decision on December 28, 2010. Counsel filed a motion to reopen and a motion to reconsider the AAO's decision. Instead of forwarding the motions to the AAO, the director erroneously dismissed the motions on March 31, 2011. On September 22, 2011, the AAO reopened the proceeding on its own motion to consider the merits of the petitioner's motions and afforded the petitioner the opportunity to respond to derogatory information regarding Atlantic International University. On December 7, 2011, the AAO affirmed its prior decision denying the petition and dismissed the petitioner's motion to reopen and motion to reconsider. The matter is now before the AAO on a second appeal [REDACTED]. The appeal will be rejected.

On January 9, 2012, counsel submitted Form I-290B, Notice of Appeal or Motion, and marked box B in Part 2 indicating that she was "filing an *appeal* [emphasis added]" and a "brief and/or additional evidence will be submitted to the AAO within 30 days." The AAO notes that as of the date of this decision, counsel failed to submit a brief regarding this appeal. Nonetheless, the AAO does not exercise appellate jurisdiction over its own decisions. The AAO exercises appellate jurisdiction over only the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1 (effective March 1, 2003). Accordingly, the appeal is not properly within the AAO's jurisdiction.

It is noted that while counsel indicated on Form I-290B that she was filing an appeal, counsel's cover letter also indicated that a brief would be submitted "[i]n connection with the [petitioner's] Motion for Reconsideration or appeal." However, there is no indication that counsel's appeal meets the requirements of a motion to reconsider. Although the regulation at 8 C.F.R. § 103.5(a)(1)(iii) allows for the motion to be accompanied by a brief, the regulations do not allow additional time to submit a brief after the filing of a motion. *Compare* 8 C.F.R. § 103.3(a)(2)(vii), which allows the AAO to grant additional time to submit a brief after the filing of an appeal. Page 2 of the instructions to the Form I-290B clearly explains that "[a]ny additional evidence must be submitted with the motion" and there is no provision for an extension. As such, the motion would have been dismissed in the alternative pursuant to the regulation at 8 C.F.R. § 103.5(a)(4).

Therefore, as the appeal was not properly filed, it will be rejected. 8 C.F.R. §103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.