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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: Office: TEXAS SERVICE CENTER

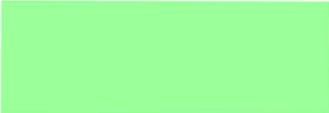
FILE:

**MAR 21 2013**

IN RE: Petitioner:   
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

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 with the field office or service center that originally decided your case by filing a 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,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition. The director dismissed a subsequent combined motion to reopen and reconsider. The matter is now before the AAO (AAO) on appeal. The appeal will be summarily dismissed.

The beneficiary has a doctorate in applied physics. He has filed this petition, seeking to classify himself as an outstanding professor or researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The director denied the petition on July 12, 2011, on the basis that the regulations make no provision for an individual to self-petition for the requested classification. See 8 C.F.R. §§ 204.5(c), 204.5(i)(1).

The director dismissed the beneficiary's subsequent combined motion to reopen and reconsider.

The beneficiary, through counsel, submits a timely appeal. Counsel has not submitted a brief or any further evidence on appeal. Counsel has failed to cite to specific errors on the part of the director or describe the evidence the director allegedly failed to analyze. Instead, the beneficiary suggests that, rather than file the petition as outstanding professor or researcher, he likely intended to file the petition as a member of the professions holding an advanced degree and as one for whom an exemption from the requirement of a job offer would be in the national interest of the United States, under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2) [often referenced as EB-2.]

He provides the following as his reason for the appeal:

This is to file a motion to reopen and reconsider. The beneficiary as a self-petitioner *hereby amends* the classification to an entrepreneur filing the employment-based second preference visa category (EB-2) National Interest Waiver (NIW.)

(Emphasis added.)

Counsel further sets forth the eligibility requirements for EB-2 classification, asserts that the beneficiary qualifies for the classification and requests "that EB-2 national interest waiver be approved" on the beneficiary's behalf. However, there is no statutory or regulatory provision allowing for the approval of the petitioner's request to amend the petition on appeal.

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.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the petition. The beneficiary has failed to specifically identify an erroneous conclusion of law or statement of fact in this proceeding. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.