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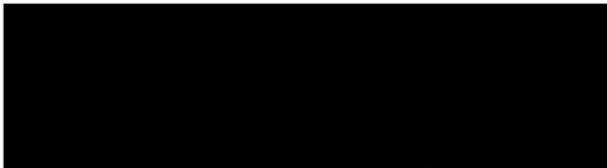
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

By



File: [Redacted]
SRC 07 165 50678

Office: TEXAS SERVICE CENTER Date: OCT 02 2008

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

Petition: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann", with a small "to" written below it.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. §§ 103.2(b)(15) and 103.3.

The petitioner, a Florida corporation, endeavored to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Act as a multinational executive or manager.

On November 28, 2007, the director summarily denied the petition due to abandonment, because the petitioner failed to respond to a request for evidence by the date specified in the request, i.e., within four weeks. 8 C.F.R. § 103.2(b)(13). The director indicated in his decision that, while there is no right to an appeal from an abandonment denial, the petitioner may, *inter alia*, file a motion with Citizenship and Immigration Services (CIS). The official having jurisdiction over a motion is the official who made the latest decision in the proceeding, i.e., the Texas Service Center director. 8 C.F.R. § 103.5(a)(ii).

Nevertheless, on December 21, 2007, the petitioner filed a Form I-290B, Notice of Appeal or Motion, and indicated in Part 2 that it is "filing an appeal." The petitioner did not file a motion. However, as correctly noted by the director, the petitioner may not appeal a denial due to abandonment. 8 C.F.R. § 103.2(b)(15). Accordingly, the AAO must reject the appeal for lack of jurisdiction. *See* 8 C.F.R. § 103.3.¹

ORDER: The appeal is rejected.

¹It is noted that the petitioner could have filed a motion to reopen or reconsider with the Texas Service Center. However, as noted above, the petitioner did not file a motion -- it filed an appeal. Regardless, upon review, the petitioner's appeal would not have met the requirements of a motion to reopen or reconsider. "[A] motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence." 8 C.F.R. § 103.5(a)(2). "A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or [CIS] policy." 8 C.F.R. § 103.5(a)(3). In this matter, the petitioner claims that it responded timely to the director's Request for Evidence. However, the petitioner neither enclosed a copy of its purported response nor submitted evidence of the Texas Service Center's claimed receipt of the response on December 3, 2007. Therefore, the petitioner did not submit any evidence for consideration on motion. The unsupported statements of counsel or a petitioner in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). The petitioner also did not cite to any pertinent precedent decisions establishing that the director's decision to deny the petition as abandoned was based on an incorrect application of law or policy.