

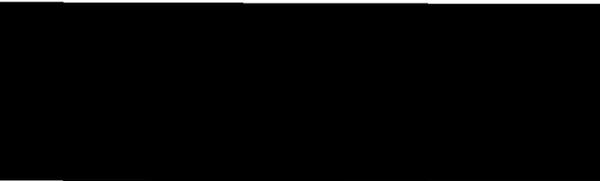
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: APR 29 2010
EAC 03 021 51641

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)

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.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed the petitioner's appeal and subsequent motion to reconsider. The matter is currently before the AAO on appeal. The appeal will be rejected.

The petitioner filed this immigrant petition seeking to employ the beneficiary as its president.¹ Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

The director denied the petition in a decision dated October 4, 2006, finding that the petitioner failed to demonstrate that the beneficiary has been and would be employed in the United States in a primarily managerial or executive capacity. The director made note of the petitioner's failure to provide certain evidence that was previously requested.

The petitioner subsequently filed an appeal challenging the director's review of the petition. Counsel asserted that the list of job duties previously provided by the petitioner was sufficient to establish that the beneficiary has been and would be employed in a qualifying managerial or executive capacity.

The AAO dismissed the petitioner's appeal in a decision dated August 28, 2007, concluding that the petitioner failed to overcome the director's findings. The AAO commented on the petitioner's failure to provide a detailed job description and addressed counsel's argument that the director failed to apply the "preponderance of the evidence" standard. The AAO also took considerable care in addressing the issue of the beneficiary's eligibility to port to new employment under AC21. The AAO concluded that the petitioner failed to establish that the beneficiary's new position is "in the same or a similar occupational classification as the job for which the petition was filed," as required by Section 106(c) of AC21.

After the petitioner subsequently filed a motion to reconsider, the AAO issued a decision dated December 17, 2008, concluding that the petitioner failed to meet the requirements for a motion to reconsider as specified at 8 C.F.R. § 103.5(a)(3). Accordingly, the AAO dismissed the motion pursuant to 8 C.F.R. § 103.5(a)(4), which states, in pertinent part, that a motion that does not meet applicable requirements shall be dismissed.

The petitioner now files an appeal from the AAO's prior dismissal of the motion to reconsider.² The petitioner's appeal must be rejected. The AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect

¹ On December 26, 2001, the petitioner filed its first Form I-140 immigrant petition. On July 30, 2002, the petition was denied. As noted in the AAO's prior decision, despite certification under the penalty of perjury, the petitioner indicated in Part 4 of the most recently filed Form I-140 that it had not previously filed an immigrant visa petition on behalf of the same beneficiary.

² Although the AAO acknowledges that the petitioner's brief submitted in support of the most recently filed Form I-290B indicates that the filing represents a motion to reopen and reconsider, the Form I-290B itself is clearly marked as an appeal of the prior decision.

on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

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

As there is no law or regulation permitting the filing of multiple appeals of the same petition, the petitioner's current appeal must be rejected.

ORDER: The appeal is rejected.