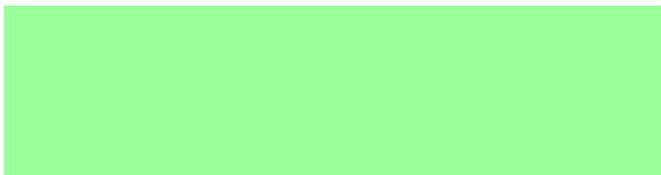


(b)(6)

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090



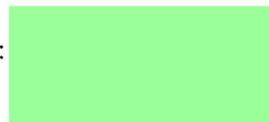
U.S. Citizenship
and Immigration
Services



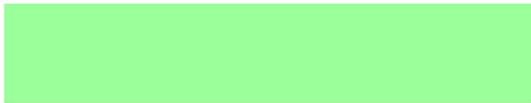
DATE: JUL 30 2013

OFFICE: TEXAS SERVICE CENTER

FILE:

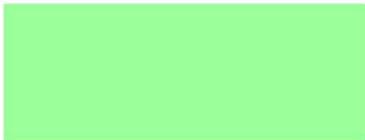


IN RE: Petitioner:
Beneficiary:



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)

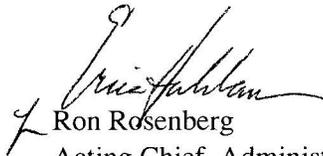
ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,


Ron Rosenberg

Acting Chief, Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center. The petitioner subsequently filed a motion to reopen and reconsider, which the director dismissed. The matter came before the Administrative Appeals Office (AAO) on appeal, which was dismissed. The matter is now before the AAO on a second appeal, which will be rejected.

The petitioner is a Florida corporation that seeks to employ the beneficiary as its president and CEO. 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 record shows that the director originally denied the petitioner's Form I-140, Immigrant Petition for Alien Worker, in a decision dated June 18, 2009. On August 3, 2009, the petitioner filed a motion to reopen and reconsider, which the director dismissed in a decision dated November 23, 2009.

The petitioner subsequently appealed the matter by filing a Form I-290B with the AAO on December 22, 2009. The appeal was dismissed on March 9, 2012. The petitioner has since filed a second appeal addressing the AAO's prior decision. The AAO cannot, however, render a decision in this matter, as there is no statutory or regulatory provision that permits the petitioner to file more than one appeal with regard to the same petition. *See* 8 C.F.R. § 103.3(a)(1)(ii). Although 8 C.F.R. § 103.5(a) permits the petitioner to file a motion to reopen or reconsider the AAO's decision on appeal, the Form I-290B in the present matter clearly indicates that the petitioner intended to file an appeal rather than a motion, apparently seeking to appeal the AAO's March 9, 2012 decision dismissing the appeal.

The AAO further notes that the petitioner's appeal does not meet the requirements of a motion to reopen or reconsider.

A motion to reopen must state the new facts to be proved 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 Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In the present matter, the Form I-290B contains a brief statement comprised of the following three sentences disputing the AAO's prior decision: 1) the AAO failed to consider "the overwhelming evidence" of the petitioner's qualifying relationship; 2) the petitioner's former accountant provided erroneous information in a prior tax return; and 3) "All other evidence from company archives are forwarded by separate cover." Counsel indicated that he would forward a brief and/or additional evidence to the AAO within 30 days. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must

comprise the motion. *See* 8 C.F.R §§ 103.5(a)(2) and (3). Counsel's brief and unsupported claims on the Form I-290B do not satisfy the regulatory criteria for a motion to reopen and/or reconsider.

Further, as discussed, the petitioner did not properly file a motion with the AAO. Instead, the petitioner erroneously filed a second appeal of a matter that had already been considered on a prior appeal. 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.