

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B5

[REDACTED]

FILE: [REDACTED]
LIN 07 027 53718

Office: NEBRASKA SERVICE CENTER

Date: SEP 30 2008

IN RE: Petitioner:
Beneficiary:

[REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The director subsequently reopened the matter on the petitioner's motion, and affirmed the denial of the petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. At the time he filed the petition, the petitioner had completed his doctoral studies at the University of Hawaii at Manoa (UHM), but had not yet received his degree. The petitioner indicated that he seeks to continue his current work as a research assistant at UHM's Center on the Family, in which capacity he would "[a]ssist in conducting household and family economic studies." The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

When the director first denied the petition on May 6, 2008, the substantive portion of the petitioner's motion to reconsider consisted of an eleven-page brief from counsel. In re-denying the petition on July 7, 2008, the director reversed part of the original finding (concerning the national scope of the petitioner's work) but found that the record "simply does not support [counsel's] contention" that the petitioner's "exceptional level of expertise allows him to contribute to his field to a substantially greater degree than others in the field."

The appeal from the second denial consists solely of a ten-page brief from counsel. The language in this brief has been taken directly from counsel's prior brief on motion. The director had already reviewed counsel's exact arguments on motion, and found them wanting. Counsel did not discuss the director's observations contained in the second denial notice. The resubmission of an abridged version of a previously submitted brief cannot be considered to be a substantive response, when the arguments in that brief have already been reviewed and refuted. The redundant brief neither answers the director's latest decision nor adds anything of substance to the record.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n 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."

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.