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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
and Immigration
Services

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JUL 20 2009

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date:
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IN RE: Petitioner: [REDACTED]
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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The AAO will summarily dismiss the appeal.

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.”

On the Form I-290B Notice of Appeal, filed on May 22, 2008, counsel indicated that a brief would be forthcoming within 120 days. To date, over a year later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

In an attachment to the appeal form, counsel listed four allegations of error:

1. The Immigration Service erred when they denied the I-140 petition under the National Interest Waiver category.
2. The Immigration Service erred when they ignored the body of evidence establishing the beneficiary’s eligibility for the National Interest Waiver.
3. The Immigration Service erred by applying the incorrect standard for the National Interest Waiver.
4. The Immigration Service erred by failing to date the decision denying the National Interest Waiver.

The first three assertions are general statements that make no specific allegation of error. Counsel, for instance, fails to specify what “incorrect standard” the director used, or to explain why it was incorrect. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

An accompanying letter addresses only the fourth issue, regarding the undated notice of decision. The lack of a date on the decision might be an issue if the petitioner were seeking to reopen a decision in which the AAO had rejected the appeal as untimely, but this is not the case here. We note that the file copy of the decision is dated April 28, 2008. The appeal was timely filed 24 days later. The lack of a date on the decision was not, and does not relate to, the director’s stated grounds for denial. Therefore, counsel’s observations about the missing date do not constitute a substantive 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.