

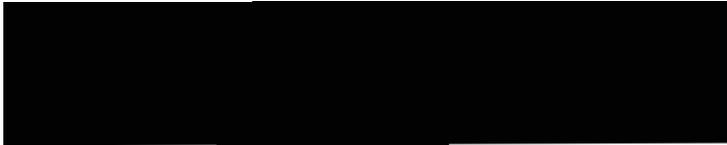


U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: NOV 09 2009
LIN 07 088 52325

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:



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).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be dismissed.

The AAO dismissed the appeal on March 6, 2009. On April 7, 2009, U.S. Citizenship and Immigration Services (USCIS) received a Form I-290B and fee from the petitioner stating that the filing constituted his motion to reopen and reconsider. The petitioner asserted that he would send a brief and/or additional evidence to the AAO within 30 days.

The regulation at 8 C.F.R. § 103.3(a)(2)(vii) allows for limited circumstances in which a petitioner can supplement an already-submitted appeal. This regulation, however, applies only to appeals, and not to motions to reopen or reconsider. There is no analogous regulation which allows a petitioner to submit new evidence in furtherance of a previously-filed motion. Regardless, as of this date, approximately seven months later, this office has received nothing further.

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. § 103.5(a)(3), 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.

The petitioner has not filed a proper motion to reopen or reconsider. His request was not accompanied by any new facts or evidence or arguments based on precedent decisions. A request for motion must meet the regulatory requirements of a motion to reopen or reconsider *at the time it is filed*; no provision exists for USCIS to grant an extension in order to await future correspondence that may or may not include evidence or arguments.

ORDER: The motion is dismissed.