



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 09 2014** OFFICE: NEBRASKA SERVICE CENTER

IN RE: Petitioner:
Beneficiary:

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:

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you

Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the sciences and as a member of the professions holding an advanced degree. The petitioner seeks employment as a mining engineer at [REDACTED]. 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.

The U.S. Citizenship and Immigration Services (USCIS) regulation at 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.”

The appeal includes a six-paragraph statement from counsel. The first paragraph contains general information about the petition and the petitioner. The second paragraph reads:

[The petitioner] is a Mining Engineer and he has made a major scientific contribution that has brought him national attention. He has developed a new way of using existing test methods to predict long-term stability of rock piles at a low cost. Our documentation shows that [the petitioner] possesses unique knowledge, abilities or experience that sets him apart from others in his field of expertise. It shows that his admission as an immigrant would provide a benefit to the United States beyond a prospective national benefit. This is a professional that the United States needs in our country.

Almost exactly the same passage appeared in counsel’s introductory statement, submitted with the initial filing of the Form I-140, Immigrant Petition for Alien Worker, on December 3, 2012; only the verb tenses are different, the word “shows” replacing the phrases “will show” and “will further show.” This language predates the denial of the petition, and therefore is not a response or rebuttal to that denial. The director addressed the petitioner’s work in the denial notice, and the appeal contains no specific response to the director’s findings.

The third and fourth paragraphs of the appeal statement mention findings by the director. For example, counsel states: “The [denial] letter states that it finds that [the petitioner’s] contributions have not enjoyed widespread implementation in the field.” Counsel, on appeal, provides no specific response to these findings. Instead, the fifth paragraph of the appeal statement reads, in its entirety: “We believe the findings of the CIS official to be in error and constitute erroneous conclusions of law and/or fact.” Counsel does not identify any specific error, or explain why the director’s findings were erroneous. Counsel simply makes a general assertion of error.

In the sixth and final paragraph of the appeal statement, counsel states: "We do intend to submit a brief and additional evidence within 30 days of the filing of this appeal. It may be necessary to request additional time however, to submit the brief and/or evidence to support this appeal." The petitioner filed the appeal on September 4, 2013. To date, more than five months later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. The petitioner has not supplemented the appeal, or shown good cause for a longer extension as required by the USCIS regulation at 8 C.F.R. § 103.3(a)(2)(vii). The AAO considers the record to be complete as it now stands.

Repetition of counsel's introductory statement, coupled with the bare assertion that the director somehow erred in rendering the decision, is not sufficient basis for a substantive appeal. Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.