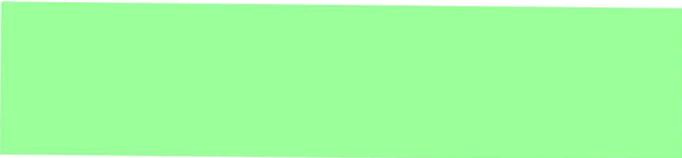




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **APR 28 2014** Office: TEXAS SERVICE CENTER

FILE

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)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

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 employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal, [REDACTED] will be dismissed.

The petitioner seeks classification for the beneficiary as an “alien of exceptional ability,” pursuant to section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A). The petitioner further asserts that the beneficiary qualifies for blanket labor certification pursuant to 20 C.F.R. § 656.5, Schedule A, Group II.

The director determined that the petitioner 1) had not established that the beneficiary is “an individual of exceptional ability,” 2) did not establish that the offered job as listed on the ETA Form 9089, Application for Permanent Employment Certification, “requires an alien of exceptional ability,” 3) did not “demonstrate[] that the beneficiary met the minimum requirements” of the position offered as listed on the ETA Form 9089, 4) did not establish compliance with 20 C.F.R. § 656.10(d)(3) regarding the notice of filing, and 5) did “not establish[] its ability to pay [the proffered wage] as of the priority date.”

Part 3 of Form I-290B, Notice of Appeal or Motion allows for “a statement explaining any erroneous conclusion of law or fact in the decision being appealed.” Part 3 indicates that “detailed verification of employment and financial viability will be submitted in support of the two relevant criteria.” The petitioner does not specifically challenge any of the director’s findings or point to specific errors in the director’s analyses.

The petitioner indicated that a brief and/or evidence would be submitted to the AAO within 30 days. The petitioner filed the appeal on November 18, 2013. As of this date, almost five months later, the AAO has received nothing further.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that “[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.” In this matter, the petitioner has not identified as a proper basis for the appeal an erroneous conclusion of law or a statement of fact in the director’s decision.

As the petitioner did not contest any of the specific findings of the director and offers no substantive basis for the filing of the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.