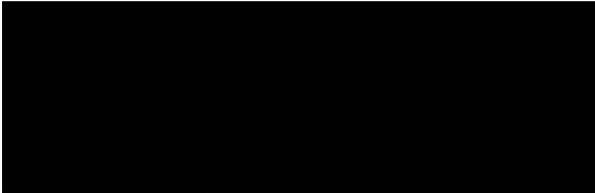




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



B6

FILE: [Redacted]
EAC-01-119-50176

Office: VERMONT SERVICE CENTER

Date: AUG 22 2006

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3)
of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

www.uscis.gov

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

cc: [Redacted]

DISCUSSION: The employment-based preference visa petition was initially approved by the Director, Vermont Service Center. Following a consular interview on the beneficiary's visa application, the director ultimately revoked the approval of the Immigrant Petition for Alien Worker (Form I-140). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

Section 205 of the Act, 8 U.S.C. § 1155, provides that "[t]he Attorney General [now Secretary, Department of Homeland Security], may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204." The realization by the director that the petition was approved in error may be good and sufficient cause for revoking the approval. *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988).

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3), as a skilled worker/ professional. The director determined that the evidence failed to establish that the beneficiary had the experience required by the ETA 750 as of the priority date, and accordingly revoked the petition.

The I-290B notice of appeal was signed by a purported new counsel, but no Form G-28 Notice of Entry of Appearance as Attorney or Representative was submitted on appeal.

On the I-290B notice of appeal, in block 3, counsel stated the reasons for the appeal as follows: "Beneficiary's previous attorney passed away, I-797 requesting [sic] additional information was never received by the beneficiary due the passing of his attorney, request 30 days to search for beneficiary's file from previous attorney." (I-290B, block 3).

On the I-290B, signed by counsel on August 19, 2004, counsel checked the block indicating that he would be sending a brief and/or evidence to the AAO within 30 days. However, no further documents have been received by the AAO to date.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A) explicitly provides as to appeals:

(2) Appeal by attorney or representative without proper Form G-28—(i) General. If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee [CIS] has accepted will not be refunded regardless of the action taken.

The petitioner has not executed a Form G-28 evidencing its consent to be represented by counsel in the instant appeal. Therefore the appeal has not been properly filed and must be rejected.

Moreover, even if the appeal had been properly filed, the regulation at 8 C.F.R. § 103.3(a)(1)(v) states that an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel here has not specifically addressed the reasons stated for revocation and has not provided any additional evidence. Therefore, even if it had been properly filed, the appeal would be summarily dismissed.

ORDER: The appeal is rejected.