

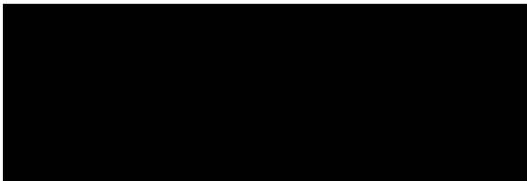
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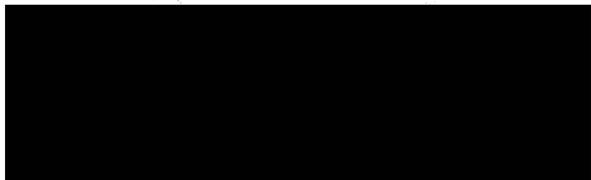


FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUL 25 2006  
SRC-02-032-55763

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:



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

**DISCUSSION:** The preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The petitioner is a non-denominational Church. It seeks to employ the beneficiary permanently in the United States as a carpenter. As required by statute, a Form ETA 750, Application for Alien Employment Certification approved by the Department of Labor, accompanied the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition and denied the petition accordingly.

The file transmitted on appeal contains a second I-140 petition filed by the same petitioner on behalf of the same beneficiary, filed on August 16, 2002, approximately two months after the Form I-290B notice of appeal was filed in the instant appeal. With the second I-140 petition, counsel submitted a photocopy of the same approved ETA 750 labor certification which was submitted in support of the instant I-140 petition. Notwithstanding the petitioner's filing of a second I-140 petition, counsel did not withdraw the instant appeal.

The second I-140 petition was approved on October 21, 2002 and CIS electronic records show that an approval notice was sent to the petitioner on that same day. Since the second I-140 petition based on the same approved ETA 750 labor certification has been approved, the instant appeal is moot.

**ORDER:**        **The appeal is dismissed as moot.**