

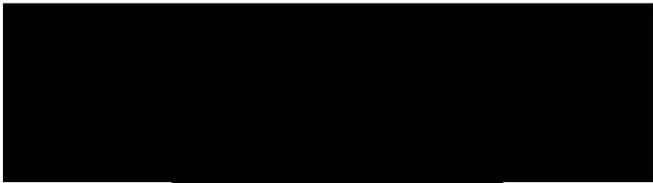


U.S. Citizenship
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Services

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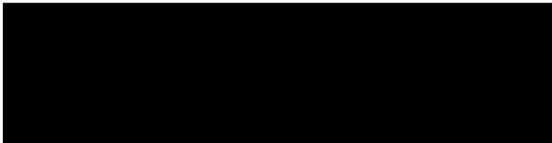


FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAR 06 2006**
EAC 01 076 51232

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant 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, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner is a healthcare provider. It seeks to employ the beneficiary permanently in the United States as a registered nurse. The director determined that the beneficiary had had violated Title 8 C.F. R. of Federal Regulation, Part 204.2(a)(1)(ii), and, denied the petition pursuant to section 204(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(c).

The Section 204(c) of the Act states:

Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

The regulation 8 C.F.R. § 204.2(a)(1)(ii) states in pertinent part:

Fraudulent marriage prohibition. Section 1040 of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws. The Director will deny a petition for immigrant visa classification filed on behalf of any alien whom there is substantial and probative evidence of such an attempt or conspiracy, regardless of whether that alien received a benefit through the attempt or conspiracy. Although it is not necessary that the alien have been convicted of, or even prosecuted for, the attempt or conspiracy, the evidence of the attempt or conspiracy must be contained in the alien's file.

The director had determined that on August 17, 1993, a United States citizen spouse had filed a petition for alien relative (form I-130) for [REDACTED]. That petition was denied on March 3, 1995, after a finding by the director of marriage fraud perpetrated by Patricia Shuler to secure immigration benefits.

Counsel submitted a Form I-290B appeal in this matter on July 1, 2004. In the section reserved for the basis of the appeal, counsel asserted that the director in the prior marriage based petition proceeding erred in holding that the aforementioned marriage was entered into in bad faith; that the marriage based petition proceeding was not fraudulent; and, CIS erred in denying the subject employment based petition.

Counsel selected on the appeal form the statement that indicated that counsel would be submitting a brief or additional evidence within 30 days,¹ however, despite a request from the AAO for a brief and/or additional evidence from counsel, none was submitted.

¹ As part of the submission, on June 26, 2003, counsel submitted the beneficiary's diploma, transcript, and nursing license; an employment authorization document and the beneficiary's social security card; and a court document relating to the beneficiary's divorced. Counsel requested in the letter additional time to "gather other documents needed to respond" but none have been submitted.

Counsel's statement on appeal contains no specific assignment of error, or introduces new evidence relative to the issues raised in the statement of appeal. Alleging that the director erred in some unspecified way is an insufficient basis for an appeal.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "An 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."

Counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.