

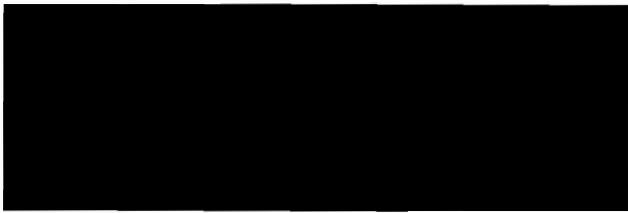
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



B

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **AUG 25, 2008**
SRC 06 072 50383

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:
[REDACTED]

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 rejected.¹

Section 203(b)(3)(A)(i) of the Act, 8 U.S.C. § 1153(b)(3)(A)(i), provides for the granting of preference classification to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States.

The petitioner is a plastic surgeon. He seeks to employ the beneficiary permanently in the United States as a certified surgical assistant. 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. The director denied the petition accordingly.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) states in pertinent part:

Filing appeal. The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 103.7 of this part. The affected party shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

In the instant case, counsel did not submit the appeal on Form I-290B. Therefore, the appeal was improperly filed pursuant to the regulation at 8 C.F.R. § 103.3(a)(2)(i), and such an appeal must be rejected.

ORDER: The appeal is rejected.

¹ In addition to being rejected, the appeal could also have been summarily dismissed. In a letter, dated April 10, 2006, counsel merely states:

I am writing to appeal the above-mentioned I-140 Application on behalf of [the petitioner].
The petitioner does have the ability to pay the proffered wage.

Counsel's statement on appeal contains no specific assignment of error. Alleging that the director erred in some unspecified way is an insufficient basis for an appeal.

The regulation at 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 could have been summarily dismissed.