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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: JUL 02 2009  
SRC 078 002 2872

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)

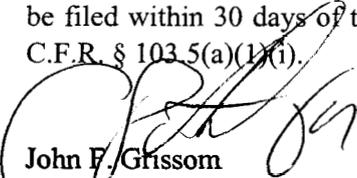
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to  
have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. §  
103.5 for the specific requirements. All motions must be submitted to the office that originally decided  
your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must  
be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8  
C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom  
Acting 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.

The petitioner is a service station. It seeks to employ the beneficiary permanently in the United States as a mechanic.

The record indicates that the Immigrant Petition for Alien Worker (Form I-140) was electronically filed on July 26, 2007. The director denied the petition on March 19, 2008. The director noted that to date (March 19, 2008), no required supporting documentation had been received. Citing 8 C.F.R. § 103.2(b)(1), the director stated that the petitioner had failed to establish eligibility because it failed to file the initial evidence required by the regulation or by the instructions on the form. He determined that the instructions on the form had required such evidence to be submitted with seven business days of e-Filing the Form. See <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vg...> (Accessed June 24, 2009). The initial evidence that must be provided included an approved labor certification from the Department of Labor.

The AAO's appellate jurisdiction is set forth at 8 C.F.R. § 103.1(f)(3)(E)(iii) (2003) which provides for appellate jurisdiction over decisions on petitions for employment-based visa classifications or special immigrants or entrepreneurs pursuant to 8 C.F.R. §§ 204.5 and 204.6 except when the denial of the petition is based upon lack of a certification by the Secretary of Labor under section 212(a)(5)(A) of the Act.

In this case, the petitioner failed to provide any initial evidence of eligibility including an approved original labor certification in which it is the designated petitioner. The denial of the instant petition was based upon such lack of initial evidence. As there is no appeal from such a denial, the AAO has no jurisdiction to issue a decision in this case and the appeal must be rejected.

It is additionally noted that this appeal could also be alternatively dismissed. The petitioner claims on appeal that it provided such evidence on October 26, 2007, although it does not claim that the evidence was filed within the seven day deadline. It submits a postal receipt confirmation claiming that it represents the delivery of the supporting documentation on that date. However, the petitioner failed to provide any copies of the alleged evidence on appeal, which is allowed by the instructions to the Form I-290B that are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1). As the record contains no evidence of the petitioner's ability to pay the proffered wage, or the beneficiary's qualifications, the petitioner cannot establish that the petition meets any of the pertinent regulatory requirements and could be dismissed on this basis.

Based on the foregoing, the appeal is rejected.

**ORDER:** The appeal is rejected based on lack of jurisdiction.