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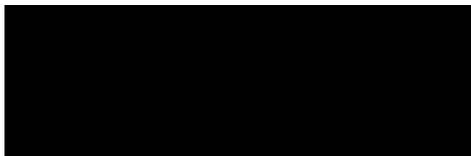
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship
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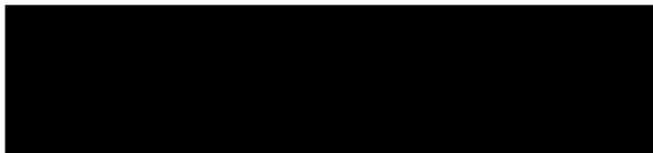


File: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: SEP 28 2009
LIN 07 121 50581

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)

IN 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.

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, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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. 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 that the petitioner had not established that the beneficiary is qualified to perform the duties of the proffered position. The director denied the petition accordingly.

On appeal, counsel indicated that she would submit a brief and/or evidence to the AAO within 30 days and stated the following:

The petitioner is willing and able to produce his business taxes as requested by the Service, however, the request was for nine years of taxes because this is a substitution case and the petitioner was only given 30 days to comply instead of the normal 84 days. The petitioner has changed accountants during the last nine years. The petitioner tried to get copies from the I.R.S. but they told him they will only provide the most recent three years and he has to order the rest which will take quite a bit of time, so it is obvious that 30 days to respond is not sufficient time. The beneficiary started working for the petitioner in 2006 and has W-2s from the petitioner for 2006 and 2007. The petitioner is gathering all the other taxes for 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005. We request that the Service gives the standard 84 days to comply with the Request for Evidence.

The regulation at 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii) states that an affected party may make a written request to the AAO for additional time to submit a brief and that, if the AAO grants the affected party additional time, it may submit the brief directly to the AAO. Counsel dated the appeal February 8, 2008. As of this date, more than 19 months later, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), 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 identified any erroneous conclusion of law or statement of fact for the appeal and has not provided any additional evidence. She has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.