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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

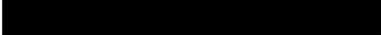


U.S. Citizenship
and Immigration
Services

B6



FILE: LIN 06 181 52935 Office: NEBRASKA SERVICE CENTER Date: **AUG 17 2010**

IN RE: Petitioner: 
Beneficiary: 

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center on June 16, 2007. The petitioner filed an appeal on July 19, 2007, and the Administrative Appeals Office (AAO) rejected the appeal on October 20, 2009 on the basis that the petitioner failed to submit his brief in a timely manner. The AAO sua sponte reopens the appeal. The appeal will be dismissed.

The petitioner is an aviation business. It seeks to employ the beneficiary permanently in the United States as an aircraft mechanic and service technician. As required by statute, a labor certification accompanied the petition. The director determined that the petitioner had not established that it had the ability to pay the proffered wage or that the beneficiary possessed the requisite experience for the position before the priority date.

No evidence suggests that the petitioner consented to the filing of the appeal. The Form I-290B appellate form was filed by counsel for the beneficiary. No evidence suggests that the petitioner consented to the filing of the appeal. USCIS regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, and it is unclear whether or not the petitioner consented to having an appeal filed on its behalf, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected as improperly filed.