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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



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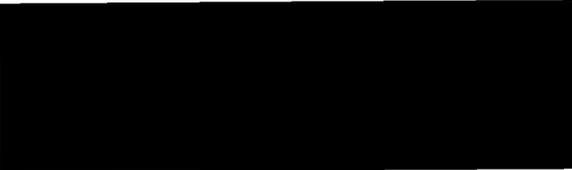


FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **MAR 31 2010**
SRC 09 135 53520

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.

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).

Perry Rhew
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 summarily dismissed.

The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a chef and head cook. As required by statute, the petition is accompanied by ETA Form 9089, Application for Permanent Employment Certification, approved by the United States Department of Labor (DOL). 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 further determined that the petitioner had not demonstrated that the beneficiary had the qualifications stated on the ETA Form 9089 as certified by the DOL and submitted with the instant petition. The director denied the petition accordingly.

On appeal, counsel states that it is not possible to submit additional evidence at this time and requests thirty additional days in which to submit evidence. Counsel also indicated on page 1 of the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence would be submitted to the AAO within 30 days. However, no brief or evidence has been received by the AAO. 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.

As stated in 8 C.F.R. § 103.3(a)(1)(v), any appeal that fails to specifically identify any erroneous conclusion of law or statement of fact will be summarily dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the petition. On appeal, the petitioner has not presented additional evidence. Nor has the petitioner specifically addressed the basis for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.