

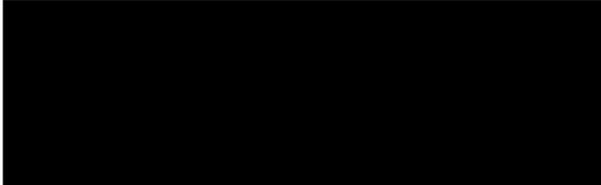
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



Be

Date:

**MAY 03 2011**

Office: NEBRASKA SERVICE CENTER



IN RE:

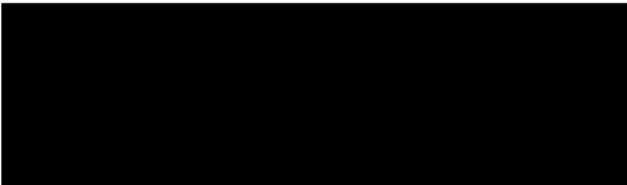
Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as an Other, Unskilled Worker 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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based preference visa petition was initially approved by the Director, Nebraska Service Center. In connection with the beneficiary's Form I-130, Petition for Alien Relative, the Field Office Director of the Chicago, Illinois, field office served the petitioner with notice of intent to revoke the approval of the petition (NOIR). In a Notice of Revocation (NOR), the Field Office Director ultimately revoked the approval of the Form I-140, Immigrant Petition for Alien Worker. The matter was appealed to the Administrative Appeals Office (AAO). The matter will be remanded to the Nebraska Service Center.

The petitioner is a private house hold. It seeks to employ the beneficiary permanently in the United States as a personal attendant. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the United States Department of Labor (DOL). As set forth in the notice of revocation, the Field Office Director determined that the beneficiary is ineligible for the benefit sought due to marriage fraud under section 204(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(c) and, therefore revoked the petition's approval accordingly.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Upon review of the record, the AAO has determined that the petition's approval must be revoked by the Nebraska Service Center.<sup>1</sup> Therefore, the AAO will remand the case to the director for further action.

In view of the foregoing, the previous decision of the director will be withdrawn. The petition is remanded to the director. The director may request any additional evidence considered pertinent. Similarly, the petitioner may provide additional evidence within a reasonable period of time to be determined by the director.<sup>2</sup> Upon receipt of all the evidence, the director will review the entire record and enter a new decision.

---

<sup>1</sup> See Memo. from [REDACTED] Executive Associate Commissioner (Acting), Office of Programs, U.S. Immigration & Naturalization Service, to Regional Directors, *et al.*, *Revocation of Employment-Based Petitions (I-140s)* (February 27, 1997), indicating that a petition which is believed by a field office to have been incorrectly approved is to be returned to the service center that approved the petition along with a memorandum of explanation. The service center will then either initiate revocation proceedings or reaffirm the petition and return it to the field office along with a memorandum of explanation for the reaffirmation.

<sup>2</sup> It is noted that the record of proceeding shows that the petitioner filed the Form I-290B appeal untimely. The Notice of Revocation of Petition for Alien Worker was dated December 4, 2009. The petitioner's appeal was received January 6, 2010, which is more than 18 days after the decision by the Field Office. It is further noted that the record shows that the appeal was initially filed with the AAO; however, the AAO cannot accept fees and therefore the appeal was returned. Hence, there is no receipt date until the appeal is filed with the appropriate Field Office. It is also noted that the Form G-28, Notice of Entry of Appearance, is not signed by the petitioner but rather is signed by

**ORDER:** The decision of the Chicago, Illinois field office is withdrawn. The petition is remanded to the director of the Nebraska Service Center for further action in accordance with the foregoing and entry of a new decision.

---

who indicates that he is the petitioner's trustee. Accordingly, it appears that counsel who signed the Form I-290B does not actually represent the petitioner.