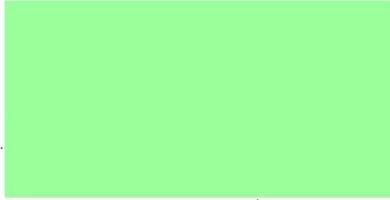


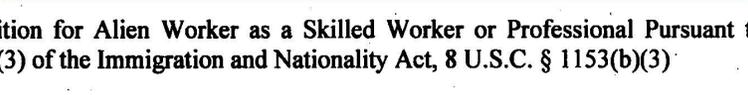


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **FEB 28 2013** OFFICE: NEBRASKA SERVICE CENTER FILE: 

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:

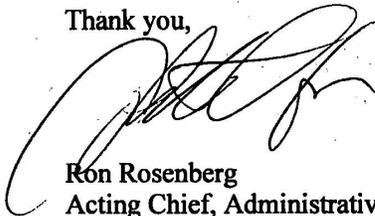


INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The petitioner filed two separate motions to reopen. The first was rejected as improperly filed. The director reopened based on the second filing, but found that the petitioner failed to overcome the basis for the denial, and affirmed his decision. The petitioner appealed. 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 (registered nurse).¹ On January 22, 2009, the director determined that the petitioner's Notice of Filing of an Application for Permanent Employment Certification was defective and that, accordingly, the Form I-140 petition was not accompanied by a proper application for labor certification and must be denied. The Motion to Reopen filed on February 23, 2009 was rejected as improperly filed on April 10, 2009. On May 11, 2009, the petitioner filed a motion to reopen the proceedings. By decision dated October 19, 2009, the director granted the petitioner's Motion to Reopen but again denied the petition stating that the petitioner had not overcome the original grounds for denial. On November 19, 2009, the petitioner appealed the director's October 19, 2009 decision stating that a brief and additional evidence supporting the appeal would be filed within 30 days.

Counsel dated the appeal November 16, 2009. As of this date, more than 39 months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii).

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 addressed the reasons stated for denial and has not provided any additional evidence. He has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.

¹ From the record, it is unclear that the petitioner's representative signed any of the documents associated with this filing. Accordingly, from the record, it is not clear that the petition was initially properly filed. Both the Form I-140 and the ETA Form 9089 were signed for the petitioner by prior counsel. See 8 C.F.R. § 103.2(a)(2) which states as follows: "(2) *Signature*. [a] . . . petitioner must sign [the] petition. . . . By signing the application or petition, the . . . petitioner . . . certifies under penalty of perjury that the application or petition, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct."