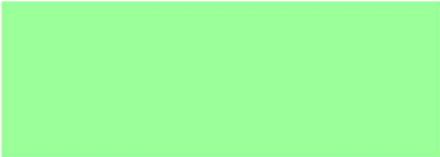


(b)(6)

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



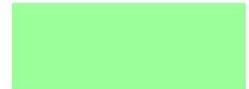
U.S. Citizenship
and Immigration
Services



DATE: JUN 19 2013

OFFICE: TEXAS SERVICE CENTER

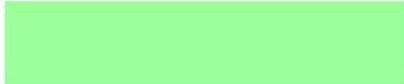
FILE:



IN RE:

Petitioner:

Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Skilled Worker Pursuant to Section 203(b)(3)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)(A)(i)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based visa petition was denied by the Director, Texas Service Center. The petitioner filed a motion to reconsider, which was also dismissed by the director. The subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now again before the AAO on motion to reconsider. The motion will be rejected pursuant to 8 C.F.R. § 103.5(a)(1)(iii)(A). The petition will remain denied.

The petitioner describes itself as a "Machining of Ceramics" business. It seeks to employ the beneficiary permanently in the United States as a supervisory ceramic machinist. As required by statute, the petition is accompanied by an 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 denied the petition accordingly. The AAO affirmed the director's decision. The AAO also noted that the petitioner had failed to establish that the beneficiary possessed the necessary work experience as required on the labor certification.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office [AAO]." This regulation applies to all motions and appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 2010).

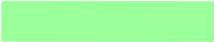
The motion to reconsider was filed on December 4, 2012, but was not accompanied by a current Form G-28. The attorney who filed the motion was contacted on March 29, 2013, and was informed that without a new, fully executed Form G-28 authorizing her to represent the petitioner, the AAO could not consider the motion to have been properly filed. No response has been received. Therefore, the AAO cannot conclude that the instant motion was properly filed by the petitioner or its authorized representative.

As the motion 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.¹ 8 C.F.R. § 103.5(a)(1)(iii)(A).

¹ It is noted that even if the attorney had filed a current G-28 with the motion, the motion would still be summarily dismissed. A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The attorney stated on motion to reconsider that the AAO had erred in its decision; however, the attorney did not specify the nature of the AAO's error, nor did she support her assertion with any pertinent precedent decisions. Although the attorney noted on Form I-290B that the petitioner will be requesting some additional time to prepare a supporting brief, a motion must establish the grounds for reconsideration when filed. Nothing in the regulations allows the AAO to provide the petitioner with additional time to provide a brief in support of a motion to reconsider. As the petitioner has not alleged or identified any specific misapplication of law or policy by the AAO, this cannot be considered a proper basis for a motion to reconsider.

(b)(6)



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ORDER: The motion is rejected.