



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: OCT 08 2013 OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

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:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center (director), denied the immigrant visa petition. The petitioner filed a motion to reopen and reconsider that was dismissed by the director as untimely. The matter is now before the Administrative Appeals Office (AAO) on appeal. 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. The petition is accompanied by an ETA Form 9089, Application for Permanent Employment Certification (labor certification), which was certified by the Department of Labor (DOL) on February 12, 2010. The Form I-140 was filed on September 14, 2011. The director determined that the Form I-140 was filed more than 180 days after the approval of the labor certification. The regulation at 20 C.F.R. § 656.30(b)(1) provides: “An approved permanent labor certification *granted on or after July 16, 2007 expires if not filed in support of a Form I-140 petition with the Department of Homeland Security within 180 calendar days* of the date the Department of Labor granted the certification.” (Emphasis added). Therefore the labor certification in the instant case had expired prior to the filing of the instant petition. As such, the director denied the petition accordingly.

On appeal, counsel merely stated that a brief in support of the appeal could follow within 30 days. Counsel dated the appeal July 8, 2013. As of this date, more than 60 days 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. Therefore, the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed.