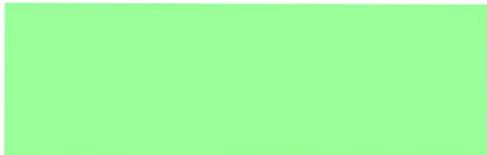




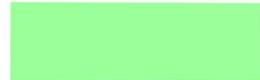
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: SEP 05 2013

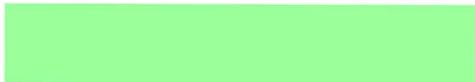
OFFICE: TEXAS SERVICE CENTER FILE:



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 (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,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center (Director). The petitioner appealed this decision to the Administrative Appeals Office (AAO), and on June 13, 2013, the AAO dismissed the appeal. The petitioner filed an appeal of the AAO's decision. The appeal will be dismissed pursuant to 8 C.F.R. §§ 103.3(a)(1)(ii), 103.5(a)(1)(i), 103.5(a)(3), and 103.5(a)(4).

United States Citizenship and Immigration Services (USCIS) regulations provide for appeals of unfavorable decisions. See 8 C.F.R. §§ 103.3(a)(1)(ii), 103.3(a)(1)(iv) (defining the jurisdiction of the Board of Immigrations Appeals and the AAO, respectively). The AAO does not exercise appellate jurisdiction over its own decisions. The AAO exercises appellate jurisdiction over only the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1 (effective March 1, 2003). An appeal of an AAO appeal is not properly within the AAO's jurisdiction.

USCIS regulations permit a petitioner to request that a decision by the AAO be reopened and reconsidered. 8 C.F.R. § 103.5(a). Motions to reopen or reconsider be filed within 30 days of the underlying decision. 8 C.F.R. § 103.5(a)(1)(i). The petitioner's brief and any evidence must be filed within 30 days of the underlying decision. *Id.* There is no provision in the statute or regulations permitting the AAO to extend that deadline. *Cf.* 8 C.F.R. § 103.3(a)(2)(vii) (permitting the AAO to allow, for good cause shown, additional time to submit a brief).

In this matter, the AAO summarily dismissed the petitioner's appeal on June 13, 2013 for failing to identify any erroneous conclusions of law or statement of fact for the appeal. See 8 C.F.R. § 103.3(a)(1)(v). On July 15, 2013, the petitioner submitted Form I-290B, Notice of Appeal or Motion, noting that it was "filing an appeal" by checking box "B" in Part 2 of that form. Part 2 of the Form is titled as "Appeal for [the beneficiary]." Part 3 of the form, "Basis for the Appeal or Motion," contains only one sentence, which reads, "I will submit my brief within 30 days Sincerely Grandeur Management." The form is signed by the petitioner's executive manager. The AAO has not received a brief and/or additional evidence.

The appeal shall be dismissed for failing to meet applicable requirements. As no appeal lies from the AAO's decision, and as the petitioner's filing does not meet the requirements for a motion to reopen or a motion to reconsider, it must be dismissed.¹ A motion must meet the regulatory

¹ A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must: (1) 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 USCIS policy; and (2) 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).

requirements of a motion to reopen or reconsider at the time it is filed; no provision exists for USCIS to grant an extension to the petitioner to file evidence or arguments in the future. The fact that the petitioner on the Form I-290B incorrectly checked box B (“I am filing an appeal. My brief and/or additional evidence will be submitted to the AAO within 30 days”), does not permit the petitioner to submit evidence beyond the 30 day period allowed for motions to reopen or reconsider. 8 C.F.R. § 103.5(a)(1)(i).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The appeal is dismissed.