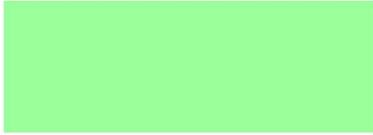
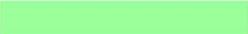


(b)(6)



U.S. Citizenship
and Immigration
Services



DATE: **AUG 06 2013** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Applicant: 
Beneficiary: 

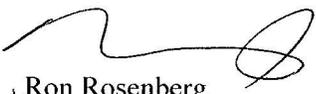
APPLICATION: Application for Extension of Stay as an E-2 Nonimmigrant Treaty Investor
Pursuant to 8 C.F.R. § 214.2(e)(20)

IN BEHALF OF APPLICANT: 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.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The applicant filed an application for an extension of stay as an E-2 Treaty Investor, pursuant to 8 C.F.R. § 214.2(e)(20). In accordance with the regulations, the application for extension of stay was filed on Form I-129. *See* 8 C.F.R. § 214.1(c)(1). The application was denied by the Director, California Service Center. The applicant then filed an appeal, which is now before the Administrative Appeals Office (AAO). The AAO will reject the appeal as improperly filed.

The Immigration and Nationality Act (“the Act”) does not require a visa petition to confer status as an E-1 treaty trader or an E-2 treaty investor. *See* section 214(c)(1) of the Act (requiring a “petition of the importing employer” for nonimmigrant aliens under subparagraphs (H), (L), (O), and (P)(i) of section 101(a)(15) of the Act); *see also* 8 C.F.R. § 214.2(r)(17) (providing an appeal for R-1 nonimmigrants by regulation). Accordingly, there is no petition determination that may be appealed. *See* section 214(c)(7) of the Act.

When it published the Final Rule governing the nonimmigrant classification, the Immigration and Naturalization Service (former INS, now USCIS) noted:

[U]nder section 103 of the Act, the service has exclusive jurisdiction to adjudicate applications for admission to this country, as well as applications for change of nonimmigrant status to, or extensions of stay in, E nonimmigrant classification. In this regard, it should be noted that, unlike other employment-driven classifications, E nonimmigrant visa classification is not conferred by means of a petition, but instead by an application.

62 Fed. Reg. 48138 (Sept. 12, 1997).

Although the extension of stay is filed on Form I-129, there is no appeal from the denial of an application for an extension of status of an E-1 or E-2 treaty trader or treaty investor. The regulation at 8 C.F.R. § 214.1(c)(5) states:

Decision in Form I-129 or I-539 extension proceedings. Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. *There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.*

(Emphasis added.) Since this application is for an extension of stay, its denial cannot be appealed. The appeal must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v).

ORDER: The appeal is rejected.