

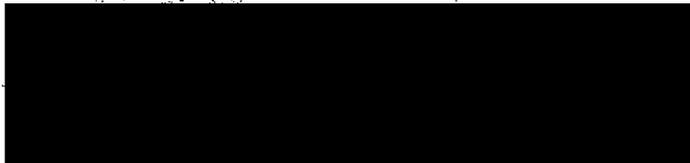


U.S. Department of Justice

Immigration and Naturalization Service

737

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: [Redacted] Office: California Service Center

Date: AUG 10 2000

IN RE: Petitioner: [Redacted]

Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5), and § 610 of the Appropriations Act of 1993.

IN BEHALF OF PETITIONER:



Public Copy

prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification as an alien entrepreneur pursuant to § 203(b)(5) of the Immigration and Nationality Act ("the Act"), 8 U.S.C. 1153(b)(5), and § 610 of the Appropriations Act of 1993. The director denied the petition finding that the petitioner failed to establish eligibility on several grounds. The director found that the structure of the petitioner's investment agreement, consisting of a down payment with additional annual payments scheduled over a four-year period, did not constitute a qualifying investment. The director also found that certain provisions of the petitioner's investment agreement did not constitute a qualifying "at risk" investment for the purposes of this proceeding. The director further found that the petitioner failed adequately to document the source of his funds and thereby failed to establish that the funds were obtained through lawful means. Finally, the director found that the petitioner had not adequately demonstrated that his investment would result in the requisite job creation. The petition was denied in a decision dated April 1, 1999.

Counsel timely filed an appeal from the denial and requested an extension of 60 days in which to submit a written brief. The record contains a copy of a facsimile transmission wherein counsel subsequently requested and was granted an additional extension of time in which to submit a brief until on or before January 31, 2000. As of this date, the Service has not received a written brief or any further communication from counsel.

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. The filing by an attorney of an appeal that is summarily dismissed under this section may constitute frivolous behavior as defined in 8 C.F.R. 292.3(a)(15).

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in the director's decision, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.