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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

File: EAC 01 251 53874 Office: VERMONT SERVICE CENTER Date: MAY 22 2003

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) rejected a subsequent appeal. The petitioner has since filed a second appeal. The appeal will be rejected.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

The AAO rejected the initial appeal in part because it was it was untimely filed (pursuant to regulations at 8 C.F.R. § 103.3(a)(2)(v)(B)), and in part because it appeared to have been filed by the beneficiary rather than the petitioner (pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*)). The latter ground for rejection was, in fact, not applicable, because the Form I-290B Notice of Appeal bears the signature of the president of the petitioning company.

The cover sheet of the AAO's rejection notice of October 7, 2002, included several paragraphs of instructions pertaining to the filing of a motion to reopen or to reconsider. These paragraphs apply only to dismissed appeals; there is no provision for the petitioner to file a motion to reopen a rejected appeal. In the rejection notice, the paragraphs were included in error and their inclusion does not supersede the regulations regarding the filing of motions.

In its rejection notice, the AAO noted that even if the appeal had not been rejected, it would have been summarily dismissed because the appeal statement fails to address the director's stated grounds for denial. The petitioner has sought the most restrictive immigrant classification on the beneficiary's behalf. This classification, by law, requires extensive documentation that the alien has sustained national or international acclaim and is among the small percentage at the very top of his field. The initial appeal statement indicated only that the beneficiary is qualified for his position as a store manager. In the new appeal, signed by the petitioner but written by the beneficiary, the beneficiary indicates only that further materials will be submitted within 30 days. To date, some six months after the filing of the new appeal, the record contains no supplementary submission. Thus, this appeal too would be subject to summary dismissal even if it were permissible to file it.

We note that a petitioner cannot file multiple appeals on a single denied petition. Therefore, regardless of whether we consider this latest filing to be an appeal or a motion, the AAO has no regulatory authority to accept this filing. The petitioner appears to have exhausted its administrative remedies without demonstrating that the director's denial decision contains any errors of fact or law.

ORDER: The appeal is rejected.