U.S. Department of Justice

Immigration and Naturalization Service

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

[redacted] PUBLIC COPY

FEB 7 2001

File: [redacted] Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

identification data deleted to prevent clearly unwarranted invasion of personal privacy

IN BEHALF OF PETITIONER:

[redacted]

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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center and the appeal of the director's decision was rejected by the Associate Commissioner, Examinations. The matter is now before the Associate Commissioner on a motion to reconsider. The case will be remanded for further consideration.

The petitioner seeks classification of 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 special machines operator. The director denied the petition after the petitioner declined to submit an original labor certification from the Department of Labor. The appeal was rejected by the Associate Commissioner pursuant to 8 C.F.R. 103.1(f)(3)(iii)(B), which provides that there is no appeal available for the denial of an immigrant visa petition based upon a lack of labor certification. It is further noted that there is no appeal from the denial of a petition based on the failure to submit an original document. 8 C.F.R. 103.2(b)(5).

According to 8 C.F.R. 103.5(a)(1)(ii), jurisdiction over a motion resides in the official who made the latest decision in the proceeding. As the petitioner's appeal was rejected without the issuance of a decision, there is no decision that may be reopened or reconsidered by the Associate Commissioner. Because the latest decision was rendered by the director, the matter must be remanded to the director for a decision pursuant to the regulations governing motions to reconsider.

ORDER: The petition is remanded to the director for further action in accordance with the foregoing.