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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

PUBLIC COPY

B6

[redacted]

FEB 24 2004

FILE: EAC 02 174 52721 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 103(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 preference visa petition was denied by the Director, Eastern Service Center, and is now before the Administrative Appeals Office on appeal.[1] The appeal will be dismissed.

The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a fast food cook.[2] The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition.

The petitioner's ostensible representative submitted a Form I-290B appeal in this matter. In the section reserved for the basis of the appeal, the preparer inserted, "The Service Decision of December 18, 2002 was made in error because the petitioner had the ability to pay the offered wage at the time of filing and continue [sic] to present."

The statement on appeal contains no specific assignment of error. Alleging that the director erred in some unspecified way is an insufficient basis for an appeal. Although the appeal was accompanied by a letter seeking additional time to submit evidence that was unavailable at the time of the appeal, no additional evidence or statement in support of the appeal was forthcoming. It should be noted that as recently as November 14, 2003, petitioner's ostensible representative sent an written inquiry regarding the status of the case, yet submitted no additional statement or evidence although it has been nearly a full year since the filing of the appeal.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.

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[1] The petitioner appears to have retained representation. The petitioner's ostensible representative, filed a copy of Form G-28, Notice of Entry of Appearance in this matter. That notice indicates that the representative is an attorney. Further, that putative representative's name does not appear on the roster of accredited representatives. The record contains no indication that the petitioner's putative representative is authorized to represent the petitioner. All representations will be considered, but the decision will be furnished only to the petitioner.

[2] There appears to be some ambiguity as to whether the petitioner seeks to petition for the beneficiary as a skilled or unskilled worker pursuant to Section 203(b)(3)(A) of the Immigration and Nationality Act. The Form I-140 Immigrant Petition identifies the petition as pertaining to a skilled worker requiring at least two years of specialized training or experience under section 203(b)(3)(A)(i). However, the Form ETA 750 Application for Alien Employment Certification notes that the position requires no experience. Additionally, the October 2002 response of petitioner to the Form I-797 Request for Evidence indicates that petitioner has requested that the petition be adjudicated as an unskilled worker petition under 212(b)(3)(iii). Because that is the latest document and more accurately reflects the information on ETA 750, it will be treated as a petition for an unskilled worker.