(b)(6)

U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-Z-

DATE: NOV. 3, 2016

APPEAL OF IMMIGRANT INVESTOR PROGRAM OFFICE DECISION

PETITION: FORM I-526, IMMIGRANT PETITION BY ALIEN ENTREPRENEUR

The Petitioner seeks classification as an immigrant investor pursuant to Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference (EB-5) classification makes immigrant visas available to foreign nationals who invest the requisite amount of qualifying capital in a new commercial enterprise that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

The Chief of the Immigrant Investor Program Office denied the petition. The Chief concluded the Petitioner did not establish that the new commercial enterprise (NCE), [redacted] will create at least 10 full-time positions for qualifying employees. The Chief also noted that the submitted business plan was neither comprehensive nor credible. The Petitioner subsequently filed a motion to reopen which the Chief also denied, finding that a revised business plan submitted with the motion to reopen, and dated after the denial, constituted an impermissible material change to the original filing.

The matter is now before us on appeal. The Petitioner does not submit additional evidence or an appellate brief to support her appeal.

Upon review, we will summarily dismiss the appeal because the Petitioner has not identified specifically any erroneous conclusion of law or statement of fact for the appeal. *See* 8 C.F.R. § 103.3(a)(1)(v).

I. LAW

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides, in pertinent part, we "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." Under the regulation, a summary dismissal is appropriate if the Petitioner makes general assertions that do not specifically identify an error in the Chief's decision. The Petitioner must state any arguments he wishes us to consider on appeal, even if he had previously raised them before the Chief. *See* 8 C.F.R. § 103.3(a)(1)(v).

II. ANALYSIS

The Petitioner's Form I-290B, Notice of Appeal or Motion, does not identify specifically any erroneous conclusion of law or statement of fact for her appeal. In part 3 of the form, "Information About the Appeal or Motion," the Petitioner checked the box that reads: "I am filing an appeal to the AAO [Administrative Appeals Office]. My brief and/or additional evidence will be submitted to the AAO within 30 calendar days of filing the appeal." In an addendum to part 4 of Form I-290B, the Petitioner remarks that the motion denial was made "in error" and that "a brief in support of this appeal will be filed within 30 days as required." As of today's date, however, four months after the Petitioner's July 2016 appeal, we have not received a brief or additional evidence.

In his motion decision, the Chief affirmed his original denial, concluding that the Petitioner did not demonstrate, by a preponderance of the evidence, her eligibility for the classification. Specifically, she did not show that, at the time she filed the petition, the NCE will create at least 10 full-time positions for qualifying employees. The Chief also noted that a second business plan submitted with the motion contained financing and job creation estimates that constitute an impermissible material change to the filed petition. On appeal, the Petitioner has not identified specific materials in the record illustrating her eligibility, or provided any legal support to show that the Chief's findings are erroneous. As she has not specifically identified any flawed conclusion of law or statement of fact for the appeal, we will summarily dismiss the appeal, pursuant to the regulation at 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of R-Z-*, ID# 97338 (AAO Nov. 3, 2016)