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U.S. Citizenship  
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FILE: SRC 03 140 51346 Office: TEXAS SERVICE CENTER

Date: JUN 28 2005

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for *Michael T. Kelly*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner describes itself as an artistic design company. It seeks to employ the beneficiary as a commercial art designer and to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the ground that the petitioner failed to establish that the proffered position qualifies as a specialty occupation as defined in section 214(i)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1184(i)(1), and in the Code of Federal Regulations at 8 C.F.R. § 214.2(h)(4)(ii). The director noted that a request for additional evidence had been sent to the petitioner on September 11, 2003, advising the petitioner to submit evidence that the commercial art designer position meets at least one criterion of a specialty occupation, as enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A):

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The petitioner responded with documentation showing that the beneficiary earned a degree in fine arts and ethics in May 1999 from Konstantina Filozova University in Nitra, Slovakia, which is equivalent to a bachelor's degree in art education from a U.S. college or university, according to an educational credentials evaluation service in Coral Gables, Florida. The petitioner did not submit any evidence, however, that the position at issue in this petition – commercial art designer – meets any of the above listed criteria of a specialty occupation. The director therefore denied the petition because the record did not establish that the proffered position qualifies as a specialty occupation. The director also declared that the petitioner failed to establish that the beneficiary was qualified to work in a specialty occupation.

On appeal the petitioner submits additional documentation pertaining to the beneficiary's education in Slovakia. No new materials have been submitted, however, showing that the position of commercial art designer qualifies as a specialty occupation under any of the criteria enumerated at 8 C.F.R. § 214.2(h)(4)(iii)(A). Thus, the appeal does not address the primary ground for the director's denial of the petition.

As specified in 8 C.F.R. § 103.3(a)(1)(v), “[a]n 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 in this case has not identified any erroneous conclusion of law or statement of fact in the director’s decision that the record fails to establish the proffered position qualifies as a specialty occupation. Accordingly, the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed. The petition is denied.