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U.S. Citizenship
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Services

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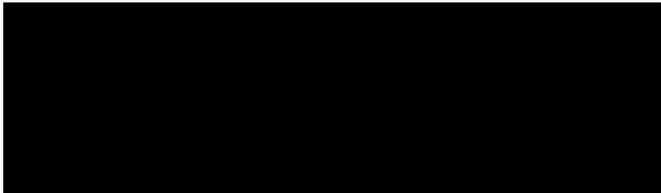


FILE: WAC 03 076 50482 Office: CALIFORNIA SERVICE CENTER Date: MAR 07 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

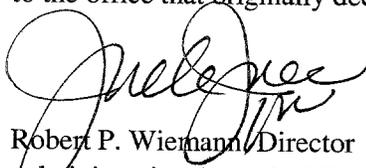
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



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.


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 is a board and care facility for the elderly. It seeks to employ the beneficiary as a budget analyst 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the grounds that the petitioner had not established (1) its eligibility to file an H-1B petition on behalf of the beneficiary as its employer or agent in the United States, or (2) the qualifications of the beneficiary to perform the services of the proffered position. The director discussed multiple items of conflicting evidence in the file, as well as the petitioner's failure to submit some specifically requested materials. He concluded with the following summation:

Given the fact that the petitioner appears to have overstated its size, annual income, number of employees; provided inconsistent and conflicting evidence, and has filed an aberrant number of petitions for a company its size for aliens who, it appears, have never been employed by the petitioner or, if employed, only for a short duration; the evidence provided is insufficient to establish that the petitioner actually has a legitimate position available for a Budget Analyst and that it actually intends to employ the beneficiary.

Based on the conflicting evidence cited above, the doubt it cast on other documentation in the file, and the petitioner's failure to furnish specifically-requested sealed transcripts from the beneficiary's college, the director also concluded that the evidence of record was insufficient to establish the beneficiary was qualified to perform the duties of the proffered position.

On appeal counsel asserts that the director's decision was based on unsubstantiated assumptions, used incorrect analysis, and ignored submitted evidence. Counsel also asserts that the director failed to analyze the beneficiary's qualifications, relying solely on the absence of sealed transcripts to find that she was not qualified to perform the duties of the proffered position. On the appeal form, filed January 9, 2004, counsel indicated that a brief and/or evidence would be submitted to the AAO within 30 days. No such brief or evidence was filed in the next 30 days, however, or at any time up to the date of the instant decision.

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." Despite broad assertions of error in the director's decision, the petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the decision. Accordingly, the appeal must be summarily dismissed.

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