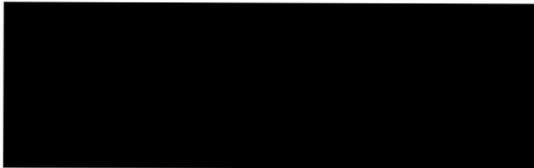


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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



FILE: LIN 04 177 50406 Office: NEBRASKA SERVICE CENTER Date: JUL 05 2006

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The director of the Nebraska Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a freight forwarder and consolidator that seeks to employ the beneficiary as an administrative services manager and to classify him 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 basis that the petitioner failed to establish that its proposed position was a specialty occupation and that the beneficiary was qualified to perform the duties of a specialty occupation.

On February 15, 2005, counsel submitted a Form I-290B (Notice of Appeal) without a brief or evidence and marked the box at section 2, indicating that he needed 90 days to submit a brief and/or evidence to the AAO. The AAO did not receive a brief or any additional evidence in this case.

An officer to whom an appeal is made shall summarily dismiss the appeal if the party concerned fails to specifically identify any erroneous conclusion of law or statement of fact in the original decision. 8 C.F.R. § 103.3(a)(1)(v).

The Notice of Appeal simply states the following:

The denial of the occupation as a specialty is incorrect and not in keeping with the provisions of the regulations. Only one of the four prongs of 8 CFR Section 214.2(h) need be met, which was met by the petitioner. The denial therefore is arbitrary and must be reversed.

Counsel did not specify any erroneous conclusion of law or statement of fact in the director's decision. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.