



U.S. Citizenship
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Services

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FILE: SRC 05 133 53007 Office: TEXAS SERVICE CENTER Date: SEP 18 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, Texas Service Center, denied the nonimmigrant visa petition. The matter is now before the AAO. The appeal will be summarily dismissed.

The petitioner is an import and export business that employs three people and claims a gross annual income of approximately \$60,000. It seeks to employ the beneficiary as a market research analyst. Accordingly the petitioner endeavors to classify the beneficiary as a nonimmigrant 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).

On June 16, 2005, the director denied the petition determining that the record did not establish that the beneficiary is qualified to perform services in a specialty occupation.

On July 13, 2005, the Texas Service Center received a Form I-290B, Notice of Appeal, indicating that a brief and/or additional evidence would be submitted to the AAO within 30 days. Careful review of the record reveals no subsequent submission of a brief or evidence; all of the petitioner's documentation in the record predates the issuance of the notice of decision. Accordingly, the record is considered complete.

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. 8 C.F.R. § 103.3(a)(1)(v).

Counsel's statement on the Form I-290B reads: "The beneficiary meets the requirements of the specialty occupation."

Counsel does not address any of the director's findings or determinations regarding the evidence submitted. As neither the petitioner nor counsel presents additional evidence or argument on appeal sufficient to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The AAO determines beyond the decision of the director that the petitioner's description of the proffered position fails to describe the actual duties of the proffered position and does not establish the position as a specialty occupation. The petitioner provides an excerpt from the Department of Labor's *Occupational Outlook Handbook (Handbook)* as the duties of the proffered position. However, a petitioner cannot establish its employment as a specialty occupation by describing the duties of that employment in the same general terms as those used by the *Handbook* in discussing an occupational title. This type of generalized description is necessary when defining the range of duties that may be performed within an occupation, but cannot be relied upon by a petitioner when discussing the duties attached to specific employment. In establishing a position as a specialty occupation, a petitioner must describe the specific duties and responsibilities to be performed by a beneficiary in relation to its particular business interests. The petitioner failed to provide a description of the proffered position that conveys an understanding of the proffered position's actual duties and has not established the position as a specialty occupation. For this additional reason, the petition cannot be approved.

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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. The petition is denied