

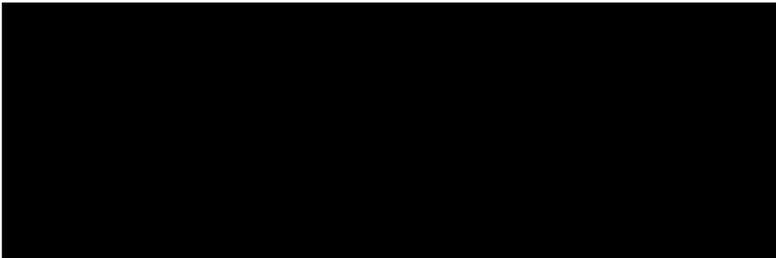
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U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. 3000
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U.S. Citizenship
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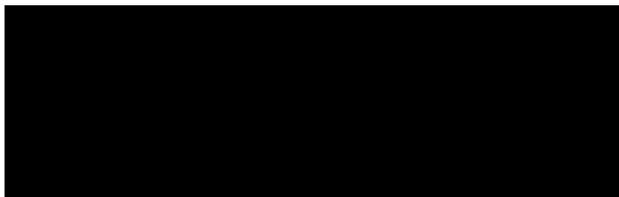
FILE: WAC 04 199 50880 Office: CALIFORNIA SERVICE CENTER Date: **OCT 02 2007**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The petitioner then filed a motion to reopen or reconsider. The motion will be dismissed.

The petitioner is a corporation that provides money remittance and freight forwarding services. The petitioner endeavors to classify the beneficiary 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 proffered position did not meet the definition of a specialty occupation.

Counsel submitted a timely Form I-290B on August 10, 2006 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. On September 6, 2007, the AAO sent counsel a facsimile regarding the absence of the aforesaid material. On September 13, 2007, the AAO received a response by facsimile from counsel stating that a brief and/or evidence was not filed in support of the motion. Therefore, the record is complete.

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. § 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Citizenship & Immigration Services (CIS) policy.

The petitioner has not filed a proper motion to reopen or reconsider. His request was not accompanied by any evidence or arguments based on precedent decisions. A request for motion must meet the regulatory requirements of a motion to reopen or reconsider *at the time it is filed*; no provision exists for CIS to grant an extension in order to await future correspondence that may or may not include evidence or arguments. By filing a motion, the petitioner does not guarantee himself an open-ended period in which to repeatedly supplement the record with evidence that did not exist at the time the motion was filed. Moreover, the petitioner did not supplement the record with a brief or evidence in support of the motion. The petitioner has not met the requirements for a motion to reopen or reconsider.

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

ORDER: The motion is dismissed.