



U.S. Citizenship
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FILE: SRC 03 035 51507 Office: TEXAS SERVICE CENTER Date: JUL 26 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 documents 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 petitioner withdrew its nonimmigrant visa petition, the service center director then denied the petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and appeal will be dismissed based on the withdrawal of the petition.

The petitioner is a resort hotel and gourmet restaurant that seeks to employ the beneficiary as an executive chef. 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).

On July 1, 2003, counsel submitted a letter to the director requesting that the petition be withdrawn, pursuant to 8 C.F.R. § 103.2(b)(6). On September 5, 2003, the director issued a decision denying the petition. The record is not clear as to why the director issued a decision two months after counsel withdrew the petition, nor is it clear why counsel is appealing the director's decision despite the earlier withdrawal. The director's decision is withdrawn, because at the time the decision was made, there was no pending petition. The appeal is dismissed for the same reason.

ORDER: The director's decision is withdrawn and the appeal is dismissed based upon counsel's withdrawal of the petition.