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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

File: EAC-00-085-52235

Office: Vermont Service Center

Date: DEC 21 2001

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)

IN BEHALF OF PETITIONER:



Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the director. The concurrent request for a change of status was denied by the director. A subsequent motion to reopen was granted by the director, and his previous decision was affirmed. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner imports, exports, and retails general merchandise. It has four employees and a gross annual income of \$400,000. It seeks to employ the beneficiary as a systems analyst for a period of three years. The director determined the beneficiary had violated his nonimmigrant status and therefore was ineligible for a change of status.

On appeal, counsel submits a brief.

Pursuant to 8 C.F.R. 248.3(g), there is no provision for an appeal from the denial of a change of status. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.