



D2

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



Public Copy

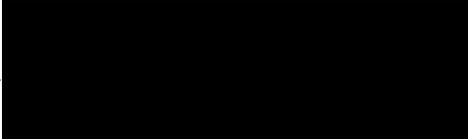
JUN 7 2001

File: EAC-99-051-54064 Office: Vermont Service Center Date:

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)

IN BEHALF OF PETITIONER:



Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was approved by the director. Pursuant to the petitioner's request that the petition be withdrawn, the director revoked the petition. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is a computer software development and consulting business with four employees and a gross annual income of \$500,000. It seeks to employ the beneficiary as a programmer analyst for a period of four years.

On appeal, counsel states that the petitioner erroneously withdrew the petition. Counsel requests that the petition be reinstated.

8 C.F.R. 214.2(h)(11)(i)(B)(ii) states that the approval of any petition is automatically revoked if the petitioner goes out of business or files a written withdrawal of the petition.

8 C.F.R. 214.2(h)(12)(ii) states in part that automatic revocations may not be appealed.

As the record demonstrates that the petition was revoked pursuant to the petitioner's written request for withdrawal, the petition may not be appealed.

In visa petition proceedings, the burden of proof remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, that burden has not been met. In accordance with 8 C.F.R. 103.3(a)(1)(v), the appeal will be rejected.

**ORDER:** The appeal is rejected.