



U.S. Department of Justice
Immigration and Naturalization Service

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



PUBLIC COPY

MAR 6 2001

File: EAC 99 235 51520 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: [Redacted]

identification 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 denied by the director. On February 29, 2000, the director reopened the case on a Service motion to reconsider and again denied the visa petition finding that "The record still does not establish that the beneficiary qualifies for the classification being sought." The matter is now before the Associate Commissioner for Examinations on appeal. The director's decision will be withdrawn and the matter remanded for further action and consideration.

On motion, the petitioner submitted further evidence and analysis concerning the beneficiary's educational background and prior employment experience. The director's denial of the motion without discussing the evidence and analysis submitted prevented the petitioner from proceeding to a meaningful appeal.

The substantive issues of this proceeding will not be discussed here. The matter will be remanded to the director for a definitive determination as to the beneficiary's qualifications. The director may request any evidence deemed warranted. The petitioner may also submit additional documentation with a reasonable period to be determined by the director. Upon receipt of all evidence and representations, the director will enter a new decision.

ORDER: The matter is remanded to the director for further action and entry of a new decision which, if adverse to the petitioner, is to be certified to the Associate Commissioner for Examinations for review.