



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

File: EAC 99 005 53075 Office: Vermont Service Center Date:

MAR - 8 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:



Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

INSTRUCTIONS:

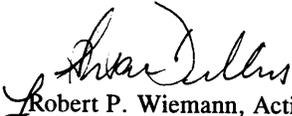
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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 approved by the director, Vermont Service Center. The petitioner's request to change the beneficiary's status from B-1 to H-1B nonimmigrant classification was denied by the director. A subsequent motion to reopen was dismissed by the director. The matter is now before the Associate Commissioner for Examinations on appeal. The matter will be remanded for further consideration.

On appeal counsel states that the director's decision did not explain the reasons why the grounds for reconsideration, as set forth in the petitioner's motion, were rejected.

In this case, the visa petition has been approved by the director. Pursuant to 8 C.F.R. 205.2(b), revocation of the approval of a petition will be made only on notice to the petitioner. The petitioner must be given the opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval. The record does not indicate that the director has begun revocation proceedings in this case, although the director does indicate that a previously approved petition for the same beneficiary was apparently abandoned.

The director denied the petitioner's request to change the beneficiary's status from B-1 to H-1B nonimmigrant classification. The motion submitted by counsel seeks to address the concerns of the director. This issue does not fall within the appellate jurisdiction of this office. Therefore, the matter shall be returned to the director.

ORDER: The matter is remanded to the director.