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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

File: LIN-01-202-55488 Office: Nebraska Service Center

Date: **DEC 18 2002**

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)

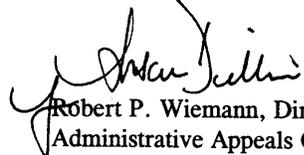
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IN BEHALF OF PETITIONER: SELF-REPRESENTED

**INSTRUCTIONS:**

This is the decision 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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn and the petition will be remanded for further consideration.

The petitioner is a legal service with one employee and an undisclosed gross annual income. It seeks to employ the beneficiary as an international legal researcher for a period of two years. The director determined the petitioner had not established that the beneficiary is qualified to perform the duties of a specialty occupation.

On appeal, the petitioner submits a brief.

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), provides in part for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i) (1) of the Act, 8 U.S.C. 1184(i) (1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to section 214(i) (2) of the Act, 8 U.S.C. 1184(i) (2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The director denied the petition because the beneficiary's degree in speech communication is not related to the proposed duties. On appeal, the petitioner states, in part, that legal research experience is not a requirement for the proffered position. Counsel further states that the beneficiary's research knowledge, comprehension and analytical skills gained through college research course work on a wide variety of topics and disciplines qualify her for the proffered position.

In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

1. Conduct research on basic legal and regulatory issues, analyze research outcomes and apply them in clients' international business practice.
2. Meet and communicate with clients; explain research outcomes and different legal and business issues to them verbally and in writing, in both English and Chinese.
3. Help the attorney prepare and draft legal and business documents, making use of research data; translate information from English into Chinese and from Chinese into English.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, the alien must meet one of the following criteria:

1. Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
2. Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
3. Hold an unrestricted State license, registration, or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
4. Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The beneficiary holds a baccalaureate degree in speech communication conferred by a U.S. institution. The proffered position is primarily that of a paralegal or legal assistant. A review of the Department of Labor's Occupational Outlook Handbook (Handbook), 2002-2003 edition, at page 215, finds no requirement of a baccalaureate or higher degree for employment as a paralegal or legal assistant. Rather, the Handbook indicates that there are many ways to become a paralegal. Employers usually require formal paralegal training obtained through associate or bachelor's degree programs or through a certification program. In addition, some employers prefer to train paralegals on the job, hiring college graduates with no legal experience or promoting experienced legal

secretaries. Other entrants have experience in a technical field that is useful to law firms, such as a background in nursing or health administration for personal injury practice or tax preparation for tax and estate practice. Accordingly, it is concluded that the petitioner has shown that the beneficiary qualifies to perform the duties of the proffered position.

The petition may not be approved, however, because the director has not determined whether the proffered position is a specialty occupation. Accordingly, the matter will be remanded to him to make such a determination and to review all relevant issues. The director may request any additional evidence he deems necessary. The petitioner may also provide additional documentation within 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 decision of the director is withdrawn. The matter is remanded to him for further action and consideration consistent with the above discussion and entry of a new decision which, if adverse to the petitioner, is to be certified to the Associate Commissioner for review.