

DR

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 MASS, 3/F
Washington, DC 20536



AUG 22 2003

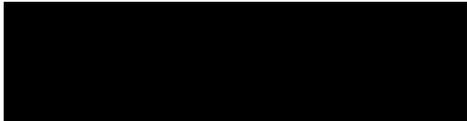
File: WAC 01 197 52957 Office: CALIFORNIA SERVICE CENTER Date:

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)

ON BEHALF OF PETITIONER:



PUBLIC COPY

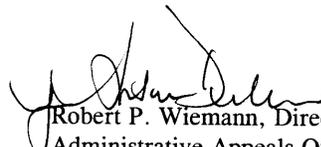
INSTRUCTIONS:

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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a San Francisco newspaper with 2900 employees and an estimated gross annual income described in the petition as "hundreds of millions." It seeks to temporarily employ the beneficiary as a columnist for a period of three years. The director determined that the petitioner had not submitted a certified Labor Condition Application and denied the petition.

With regard to appeals procedures, 8 C.F.R. § 103.3(a)(1)(v) states that an officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

While counsel states that information and documentation previously submitted were not considered in the Bureau's decision to deny the petition, he fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Upon review of the record, the petitioner's original I-129 petition was accepted by the Bureau with an uncertified LCA. The Bureau subsequently advised the petitioner that due to a backlog, it could submit a certified LCA by FAX. Although the record contains the return FAX cover sheet dated July 10, 2001, with counsel's name on it, there is no evidence of an additional three pages faxed to the Bureau or evidence of a certified LCA in the record.

Although counsel states on the Form I-290B that he is submitting a brief and/or further evidence for the record with regard to the instant petition, no such additional evidence is found in the record. In addition, it appears that counsel was contacted by telephone for any brief materials on February 24, 2003; however, no brief has been received by the Bureau.

As the petitioner has provided no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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 summarily dismissed.

ORDER: The appeal is dismissed.