

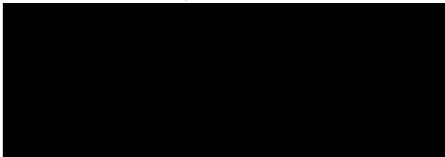
PUBLIC COPY

D2

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

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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536



FILE: LIN-00-105-50997 OFFICE: NEBRASKA SERVICE CENTER

DATE: DEC 18 2003

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:



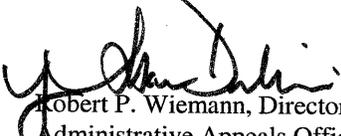
INSTRUCTIONS:

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 Citizenship and Immigration Services (CIS) 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 Director of the Nebraska Service Center revoked the nonimmigrant visa petition and matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded for review.

On August 21, 2000, the director approved the immediate petition. In a letter, dated April 3, 2002, the director stated that the petitioner was being served with notice of the director's intent to revoke the immediate petition. The director stated that the petitioner was granted 30 days in which to submit to the office evidence in support of the petition and in opposition to the revocation. On July 23, 2002, the director revoked the immediate petition because the petitioner failed to respond to the director's notice of intent to revoke. Accordingly, the approval of the petition was revoked.

On July 23, 2002, counsel submitted an appeal and additional documents. Counsel stated that the respondent, through counsel, had submitted a timely response to the director's letter of April 3, 2002.

A review of the evidence contained in this record discloses that, on May 3, 2002, the Nebraska Service Center had received the petitioner's response to the director's letter of April 3, 2002; thus, the Nebraska Service Center had received the response prior to the expiration of 30 days. The director must, therefore, review the evidence submitted and render a determination on whether the petitioner has overcome the stated reasons for revoking approval of the petition. As always, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's July 23, 2002 decision is withdrawn. The petition is remanded to the director for entry of a new decision, which if adverse to the petitioner, is to be certified to the AAO for review.