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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

Identifying data deleted to
prevent clearly unwarranted



JUL 21 2003

File: EAC-01-007-51531 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)

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. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The petitioner provides catering and restaurant services. It seeks to employ the beneficiary as a banquet manager for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation or that the beneficiary is qualified to perform the duties of a specialty occupation.

On appeal, counsel had provided additional information in support of the appeal.

The AAO dismissed the appeal reasoning that the petitioner had not established that the beneficiary was qualified to perform the duties of a specialty occupation or that the proffered position required a baccalaureate degree.

On motion, counsel expresses disagreement with the director's decision, and states that additional evidence in support of the motion would be submitted on or before July 17, 2002. To date, no additional information has been received by this office. Therefore, the record will be considered complete.

Pursuant to 8 C.F.R. § 103.5(a)(1)(i):

Any motion to reconsider an action by the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider. Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen. . . .

Pursuant to 8 C.F.R. § 103.5(a)(4):

Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed. . . .

The AAO dismissed the petitioner's appeal on May 1, 2002. The instant motion was filed on June 24, 2002, 54 days after the AAO dismissed the petitioner's appeal. Therefore, the motion has not been properly filed, and must be dismissed.

ORDER: The motion is dismissed.