

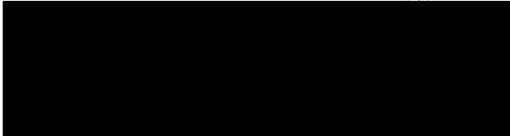
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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

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

PUBLIC COPY

JUN 12 2003



File: WAC-01-063-53286 Office: CALIFORNIA 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:



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

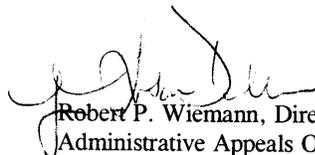
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office 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 and is now before the Administrative Appeals Office (AAO) on appeal. The petition will be remanded to the director for entry of a new decision.

The petitioner is a computer software development business with 1,700 U.S. employees and a gross annual income of \$156 million. It seeks to employ the beneficiary as a programmer analyst for a period of three years. The director denied the petition due to abandonment. The director advised the petitioner that her decision was not appealable, as a denial due to abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15). The director, however, did advise that a motion to reopen in accordance with 8 C.F.R. § 103.5(a)(2) could be filed by the petitioning entity.

The AAO lacks jurisdiction over a motion to reopen. Any jurisdiction here rests with the director, California Service Center. 8 C.F.R. § 103.5(a)(1)(ii). Therefore, this case will be remanded to the director for consideration of the material submitted by the petitioner, to determine whether it meets the requirements of a motion.

ORDER: The petition is remanded to the director in accordance with the foregoing.