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

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



File: LIN 01 103 51519 Office: NEBRASKA SERVICE CENTER Date: MAY 12 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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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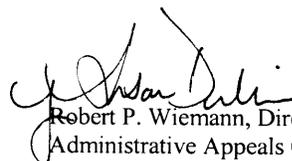
INSTRUCTIONS:

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, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a textile screenprinting business with 18 employees. It seeks to employ the beneficiary as a screenprinter/shop foreman 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 qualifies to perform services in a specialty occupation.

On appeal, the petitioner submits a statement.

The term "specialty occupation" is defined at section 214(i)(1) of the Immigration and Nationality Act (The Act), 8 U.S.C. § 1184(i)(1), as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) 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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The director determined the petitioner had not shown that the duties of the position are so specialized and complex as to require a baccalaureate degree in a specific specialty or its equivalent.

On appeal, the petitioner asserts that the proffered position is a specialty occupation requiring the equivalent of a baccalaureate degree in a specific specialty. The petitioner further asserts that the beneficiary's 12 years of work experience in screen printing production and management are equivalent to a baccalaureate degree in a specific specialty.

When determining whether a particular job qualifies as a specialty occupation, the Bureau (formerly the Service) considers the specific duties of the offered position combined with the nature of the petitioning entity's business operations. In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

Operate manual printer, supervise shop area and train other employees on printers. Advise and recommend concerning the purchase of automated equipment. Train staff on automated equipment. Advise on inks used in screenprinting and curing modes. Eventually to manage screenprinting operation.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
3. The employer normally requires a degree or its equivalent for the position; or
4. The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The petitioner has not met any of the above requirements to classify the offered position as a specialty occupation.

The proffered position appears to combine the duties of a screen printer with those of a first-line manager of production and operating workers. Although the Department of Labor's (DOL) *Occupational Outlook Handbook (Handbook)*, 2002-2003 edition, does not list the occupation of screen printer, the DOL's Occupational Information Network (O*Net) indicates that most screen printing jobs require training in vocational schools, related on-the-job experience, or an associate's degree. While some screenprinting jobs may require a bachelor's degree, there is no indication that a baccalaureate degree in a specific specialty is normally the minimum requirement for such jobs.

Additionally, a review of the *Handbook* at page 604 finds no requirement of a baccalaureate degree in a specific specialty for employment as a first-line manager of production and operating workers. The most significant source of training for this job is work experience.

In an attempt to show that the position in question requires specialized work experience that is equivalent to a baccalaureate degree in a specific specialty, the petitioner submitted general descriptions of production supervisor and production manager jobs from www.sgia.org, the website of the Screenprinting & Graphic Imaging Association International (SGIA). According to this material, a production supervisor or plant foreman job normally requires a bachelor's degree in business or production management or three to five years of screen printing management experience, or an equivalent combination of education and experience. The production manager job typically requires a bachelor's degree in business, engineering, or production management from a four-year college or university, or three to five years of screen printing experience or an equivalent combination of education and experience. Although the duties of both the production supervisor job and the production manager job bear some similarity to the duties of the proffered position, those jobs represent a higher level of authority and responsibility than the position in question. The production supervisor, also referred to as the plant foreman, oversees screen printing operations within that particular department of a plant and would report to the production manager. The production manager oversees all the operations of the plant. In this case, the beneficiary would be

serving as shop foreman in a screen printing business rather than as the head of a screen printing department within a larger plant. Since the production supervisor and production manager position descriptions do not appear to be parallel to the position in question, their educational requirements are not relevant to the question of whether a baccalaureate degree in a specific specialty or its equivalent is a minimum for entry into the occupation of screen printer/shop foreman.

Furthermore, a search of the "Positions available" portion of the SGIA website reveals the following available screenprinting jobs and the stated requirements for those jobs:

1. **Screen Printer.** Experience required.
2. **Pre-Press Supervisor.** Minimum 5 years Pre-Press Supervisory experience required. Screen printing experience preferred.
3. **Print Production Coordinator.** Minimum of 2-4 years of print production management experience in a printing environment. A college or professional degree, or equivalent work experience is required.
4. **Screen Printing Department Manager.** Prior experience in screen making, color matching, multi-color press setup and operations are required. Must have good communication and management skills.
5. **Screen Print Production Supervisor.** Knowledge in all areas of screen pre-press and printing desired. Must be able to solve problems, lead others, and produce high quality. Experience in die-cutting and flexography a plus.
6. **Production Manager.** Prior screen printing experience a plus.

Clearly, the job advertisements from the SGIA website contradict the SGIA job descriptions. While the print production coordinator position requires a bachelor's degree, there is no stated requirement of a baccalaureate degree in a specific specialty. None of the other advertised jobs require a bachelor's degree in any area of study according to these advertisements. Thus, the SGIA position descriptions are not sufficient to show that a baccalaureate degree in a specific specialty is normally the minimum requirement for entry into the occupation.

The petitioner states that he requires the equivalent of a baccalaureate degree in a specific specialty for the position in question. According to the petitioner's prevailing wage request form, however, the petitioner is willing to accept an individual with only three years of experience in screen printing, and he does not indicate any requirement of a baccalaureate degree in any field for the job. The petitioner states on appeal that he based his stated three-year requirement on the SGIA job descriptions for production supervisor and production manager jobs. However, as stated above, the educational requirements for those jobs are not relevant to the requirements for this position. The petitioner has not provided any evidence to show that he required the equivalent of a bachelor's degree in a specific specialty as part of the hiring process for the position in question.

In an attempt to show that the degree requirement is an industry standard, the petitioner submitted three advisory opinion letters. Dawn M. Hohl, Technical Training and Resource Manager of SGIA, stated:

From my experience, people with screen printing degrees are the exception rather than the rule, so equivalent experience becomes very important.

Debbie Ford of One Stroke Inks stated:

Printers must be knowledgeable in all aspects of printing, various inks, different types of screen printing and mixing of chemicals to be able to produce as the market needs. These types of skills come with years of experience and cannot be found easily. It is a must in the industry to obtain an experienced printer.

David Landesman, Co-President of Lawson Screen Products, stated:

With relatively few universities offering bachelor degrees pertaining to our industry, finding individuals with training and expertise equivalent to a bachelor degree becomes a driving force in the search for key personnel.

These individuals all state that screen printers with a bachelor's degree in a related area are the exception rather than the rule within the industry and that the most important qualification for screen printing jobs is years of screen

printing experience. None of these individuals has provided specific information as to how much work experience would be considered equivalent to a bachelor's degree in a specific and related specialty within the industry. Nor has any of these individuals provided any independent evidence to corroborate their statements. Simply going on record without supporting documentary evidence is not sufficient for meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Finally, the petitioner has not shown that the duties of the position are so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate degree in a specific specialty or its equivalent.

The petitioner has failed to establish that any of the four factors enumerated above are present in this proceeding. Accordingly, it is concluded that the petitioner has not demonstrated that the offered position is a specialty occupation within the meaning of the regulations.

The director also denied the petition because the petitioner had not shown that the beneficiary qualifies to perform services in a specialty occupation.

On appeal, the petitioner states that the beneficiary's 12 years of screen printing and print management experience are equivalent to the attainment of a baccalaureate degree in a specific specialty.

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 record shows that the beneficiary does not hold a bachelor's degree, nor has he completed any college-level course work.

The record further shows that the beneficiary has 12 years of related work experience in screen printing and management of screen printing operations. The beneficiary states in his resume that he owned his own silkscreen printing business from September 1989 to August 1994. The petitioner submitted a document from the town of Bialystok, Poland indicating that the beneficiary operated a printing company from September 20, 1989 to March 31, 1991. The beneficiary states that he did silk screen printing on paper cardboard, wood, and plastics as well as textile printing on cotton, linen, and synthetic fibers.

From September 1994 to November 1996 the beneficiary worked as a silk screen printer for a printing house in Poland. The petitioner submitted an employment letter from the beneficiary's employer, Mazovian Graphic Works, indicating that the beneficiary's duties included setting up a silk screening department and training and supervising silk screening workers.

From November 1996 to December 1997 the beneficiary worked for a printing house as a silk screen print consultant developing a silk screening department and training and supervising silk screening workers. The petitioner submitted an employment letter to document this employment.

From December 1997 to July 2000 the beneficiary worked as head of a silk screen and graphic printing house in Poland. The record contains an employment letter stating that the beneficiary supervised supervised printing operations at that company.

The beneficiary indicates that from January 1998 to November 1999 he received vocational training in the operation of an automatic silk screen print machine from a private silk screening house. The petitioner submitted a certificate reflecting completion of vocational training in screen printing and technical service using an automatic silk screen textile printing machine.

From August 1999 to October 2000 the beneficiary states that he owned and operated a business selling screen printing ink, supplies, and machines. The beneficiary indicates that he served as a consultant in setting up a screen printing department in many printing houses and trained many screen printing workers. No evidence has been submitted to document this portion of the beneficiary's work experience.

The petitioner has submitted an evaluation of the beneficiary's work experience performed by [REDACTED], a credentials evaluator for the Consultancy on International Education. Ms. [REDACTED] found the beneficiary's 12 years of relevant work experience equivalent to a Bachelor of Fine Arts degree in screen printing from an accredited college or university in the United States.

The Bureau uses an independent evaluation of a person's foreign credentials in terms of education in the United States as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be rejected or given less weight. *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988). In this case, the credentials evaluator has not explained specifically how the evaluation was made or the basis for making it (including copies of the relevant portions of any research materials used). Additionally, the record does not contain any evidence to show that Ms. [REDACTED] is an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience as required by 8 C.F.R. § 214.2(h)(4)(iii)(D)(1).

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(D)(5), the Bureau may determine that equivalence to completion of a baccalaureate degree in a specialty occupation has been acquired through a combination of education, specialized training, and/or work

experience in areas related to the specialty and that the alien has achieved recognition for expertise in the specialty occupation as a result of such training and experience. For purposes of determining equivalency to a baccalaureate degree, three years of specialized training and/or work experience must be demonstrated for each year of college-level training the alien lacks. . . . It must be clearly demonstrated that the alien's training and/or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation; that the alien's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and that the alien has recognition of expertise in the specialty evidenced by at least one type of documentation such as:

- (i) Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation;
- (ii) Membership in a recognized foreign or United States association or society in the specialty occupation;
- (iii) Published material by or about the alien in professional publications, trade journals, or major newspapers;
- (iv) Licensure or registration to practice the specialty occupation in a foreign country; or
- (v) Achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation.

Although the record contains letters related to some of the beneficiary's work experience in printing houses, no information is provided in any of the letters as to whether the beneficiary's work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation or whether his work experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation.

The record contains an advisory opinion letter from Joseph Schickel, Assistant Professor of Graphics Communications Technology at California University of Pennsylvania. Professor

Schickel states that the beneficiary has achieved the degree of experience that employers would normally see in an individual possessing a baccalaureate degree "plus career-related experience." Professor Schickel states that he based his evaluation on his university's undergraduate curriculum in Graphic Communications Technology with emphasis on screen printing, but he did not explain specifically how he arrived at his conclusion. Furthermore, although Professor Schickel is a professor of Graphics Communication Technology, the record does not contain sufficient evidence to show that he is a recognized authority in that field. Additionally, in order to establish equivalency to a baccalaureate degree in a specific specialty, the petitioner must provide recognition of expertise in the specialty occupation by *at least two recognized authorities* in the same specialty occupation. (Emphasis added.)

The beneficiary is not a member of any organizations whose usual prerequisite for entry is a baccalaureate degree in a specific specialty. The record contains no evidence that the beneficiary holds a state license, registration, or certification which authorizes him to practice a specialty occupation in a foreign country. The record does not contain any published material by or about the alien in professional publications, trade journals, or major newspapers. No evidence has been submitted to document any achievements which a recognized authority has determined to be significant contributions to the field of a specialty occupation.

In view of the foregoing, it is concluded that the petitioner has not demonstrated that the beneficiary has the equivalent of a baccalaureate degree in a specialty occupation.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.

EDUCATION