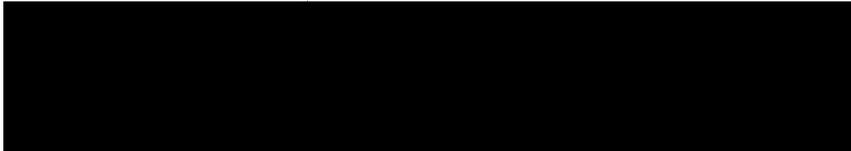


identifying and deterring
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

VA

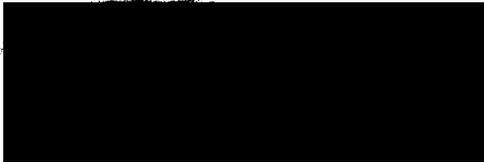


FILE: EAC 03 023 53375 Office: VERMONT SERVICE CENTER Date: AUG 15 2004

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center approved the nonimmigrant visa petition on November 4, 2002. The beneficiary was granted H-1B status as a physician, with the beneficiary's status being valid from February 7, 2002 until October 30, 2004. The beneficiary then traveled to Canada. On December 13, 2002, the beneficiary applied for a visa to return to the United States at the office of the consulate general in Toronto, Canada. The beneficiary's visa application was denied upon determination by the consulate general that the beneficiary had exceeded the maximum time allowable in H-1B status. By memorandum dated January 21, 2003, the consulate general indicated that it was returning to the Vermont Service Center Notices of Action for revocation or review. The record does not reflect that the Vermont Service Center has taken any action on the State Department memorandum to date. On January 31, 2003, the petitioner filed a notice of appeal with an attached brief contesting the decision of the consulate general to deny the petitioner's visa application in Toronto, Canada. The petitioner's appeal will be rejected as the Administrative Appeals Office (AAO) lacks jurisdiction to consider the matter. 8 C.F.R. § 103.3(a)(ii). The AAO does not have appellate jurisdiction over visa application adjudications by the United States Department of State. There is no decision or adverse determination of any manner presently before the AAO upon which the petitioner has a right of appeal.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii)(as in effect on February 28, 2003).

As the jurisdiction over the appeal in this case does not lie with the AAO, the appeal must be rejected.

ORDER: The appeal is rejected.