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U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: WAC 03 168 50201 Office: CALIFORNIA SERVICE CENTER Date: JUL 23 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:

[Redacted]

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 director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a marketing and advertising business that seeks to employ the beneficiary as a production artist. The director denied the petition on the basis that the beneficiary is not qualified to perform the duties of a specialty occupation.

Counsel submitted a timely Form I-290B on July 23, 2003 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. On August 21, 2003, counsel requested an extension of an additional 30 days to submit a brief in support of the appeal. The AAO granted an extension to file a brief on or before September 22, 2003. Then on September 17, 2003, counsel submitted another request for an additional 30 days to submit a brief in support of the appeal. Again, the AAO granted an extension to file a brief on or before October 22, 2003. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, counsel states that the director failed to give weight to the credentials evaluation, but fails to identify specifically how the director made any erroneous conclusion of law or statement of fact in denying the petition. It is noted that, in his denial, the director concluded that the evaluator had not sufficiently demonstrated that the beneficiary's education and work experience are the equivalent of a baccalaureate degree. As such, the record indicates that the director did review the evaluation but found it insufficient in demonstrating that the beneficiary was qualified for the proffered position. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. 103.3(a)(1)(v).

The burden of proof in this proceeding 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.