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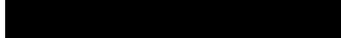
U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



**U.S. Citizenship
and Immigration
Services**



FILE: WAC 99 149 51857 Office: CALIFORNIA SERVICE CENTER Date: **MAR 04 2004**

IN RE: Petitioner: 
Beneficiary: 

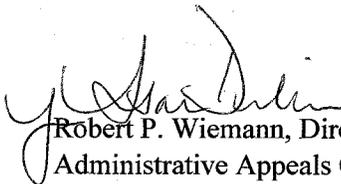
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The director's decision was appealed to the Administrative Appeals Office (AAO), who then dismissed the appeal by decision dated January 4, 2002. The petitioner then filed a motion to reopen/reconsider. The AAO granted the motion, then affirmed the prior decisions dismissing the appeal by opinion dated December 11, 2001. The matter is again before the AAO on the petitioner's motion to reconsider pursuant to 8 C.F.R. § 103.5 (a) (3). The motion will be dismissed.

The regulation at 8 C.F.R § 103.5(a)(3) provides, in pertinent part, that "a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy." A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5 (a)(4).

Counsel asserts in his motion that: the proffered position is that of a market research analyst; that a bachelor's degree is the minimum requirement for entry into the position; and that the beneficiary is qualified to perform the duties of the position. As noted above, a motion to reconsider must state the reasons for reconsideration **and** be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Citizenship and Immigration Services (CIS) policy. (Emphasis added.) Counsel does not cite any precedent decision establishing that the AAO's prior determination was based on an incorrect application of law or policy. As such, the motion must be dismissed.

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

ORDER: The motion is dismissed. The previous decision of the AAO, dated December 11, 2001, is affirmed.