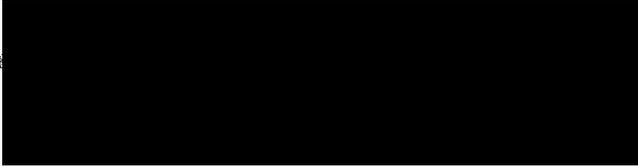




U.S. Citizenship
and Immigration
Services

Handwritten scribbles



FILE: WAC 00 047 52003 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:



MAY 17 2004

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 information is redacted to prevent clearly unwarranted invasion of personal privacy

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

to Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY.

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 manufacturer of CDs and DVDs that seeks to employ the beneficiary as a marketing analyst. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b). The director denied the petition on the basis that the beneficiary was not qualified to perform the duties of the specialty occupation.

On appeal, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. Counsel mistakenly states that the director denied the petition on the basis that the proffered position was not a specialty occupation, and the assertions on appeal are directed at this moot issue. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, which was based on the beneficiary's lack of qualifications and not the nature of the proffered position, 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.