



U.S. Citizenship
and Immigration
Services

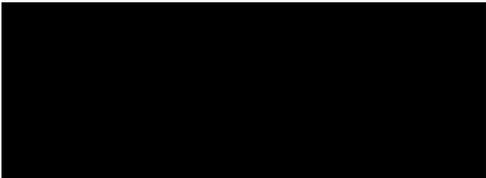


FILE: SRC 02 236 51353 Office: TEXAS SERVICE CENTER Date:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 jeweler that seeks to employ the beneficiary as a sales manager. 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 because the proffered position did not qualify as a specialty occupation, and because the beneficiary was not qualified to perform the duties of a specialty occupation.

The petitioner submitted a timely Form I-290B on August 25, 2003, and indicated that a brief and/or additional evidence would be submitted to the AAO within 90 days. By correspondence dated November 17, 2003, counsel forwarded to the AAO three letters that are supposedly from the beneficiary's past employers. Counsel offers these letters as new evidence not previously available which certify "that the beneficiary is qualified for the position." The letters are, however, of no evidentiary value as they are written in Spanish and not accompanied by a certified translation. Furthermore, the director's decision not only found that the beneficiary was not qualified to perform the duties of the offered position, but that the position was not a specialty occupation. Counsel did not address the latter issue on appeal.

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).

Counsel for the petitioner failed to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition because the proffered position did not qualify as a specialty occupation. As the petitioner fails to present 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.