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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

02



FILE: WAC 02 280 55895 Office: CALIFORNIA SERVICE CENTER Date: SEP 14 2004

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(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 and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is engaged in the window treatment business. In order to employ the beneficiary as a market research 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on two independent grounds, namely, that the petitioner had failed to establish that (1) the proffered position meets the definition of a specialty occupation at 8 C.F.R. § 214.2(h)(4)(iii)(A), and (2) the beneficiary is qualified to serve in a specialty occupation in accordance with 8 C.F.R. § 214.2(h)(4)(iii)(C). The director also cited "serious doubts [as] to the validity of the petitioner's statements contained with the instant petition," based upon evidence in the instant record which indicated to the director that the petitioner apparently had filed incorrect information with regard to the wages it would pay the beneficiaries of three previous visa petitions.

On June 29, 2004, the petitioner submitted a Form I-290B (Notice of Appeal) without a brief or evidence. The petitioner's president entered a check mark at the box at section 2 of the Form I-290B that states "I am *not* submitting a separate brief or evidence" (emphasis in the original), and the AAO has received neither. Accordingly, the AAO deems the record complete and ready for adjudication.

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, which is the only document which has been submitted on appeal, the petitioner provided only this statement about the basis of the appeal:

I am filing an appeal because we need this person's expertise to head the marketing of this company. I believe that this person is more than capable to do the duties and responsibilities of the position in question.

The petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. 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.