

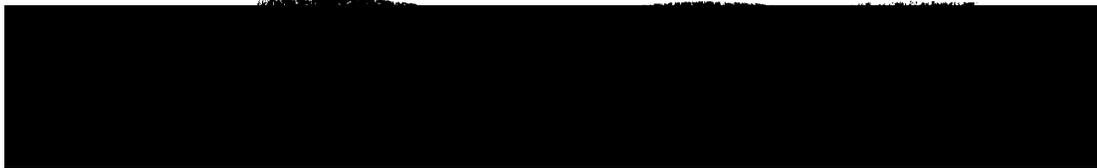
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U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

PHOTOCOPY



U.S. Citizenship and Immigration Services



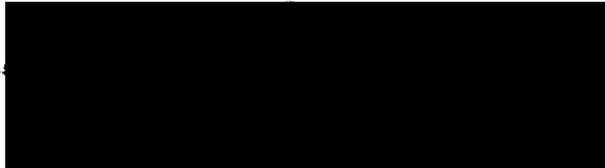
FILE: EAC 03 054 51639 Office: VERMONT SERVICE CENTER Date: 11/14/03

IN RE: Petitioner:

Beneficiary: HAREN R. PATHAK

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 a corporation engaged in the hospitality 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 the basis that the petitioner had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The materials submitted on appeal consist of only two documents, which were filed on November 4, 2003: a Form I-290B (Notice of Appeal) and an October 30, 2003 cover letter from counsel. No brief was submitted, even though the letter listed "a brief in support of the Notice of Appeal" as one of its enclosures. Also, counsel entered a check-mark at the box at section 2 of the Form I-290B which indicates that counsel would send a brief and/or evidence within 30 days, and, at section 3 of the form, counsel stated:

We shall submit a brief within 30 days. Because we need to conduct legal research (case laws)[.]

The AAO has received neither a brief or evidence to support the appeal. 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, counsel provides only this general and conclusory statement about the basis of the appeal:

The decision [denying the petition] is arbitrary, capricious and unreasonable. The adjudication [sic] abused his discretion is [sic] denying [the] instant petition. The petition should have been approved since the position is a specialty occupation.

Counsel 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.