



U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 087 52966 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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.

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 corporation engaged in the wholesale and retail of perfumery and cosmetics. In order to employ the beneficiary as a business 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).

On May 7, 2004, counsel submitted a Form I-290B (Notice of Appeal) without a brief or evidence. Although counsel entered a check mark at the box at section 2 of the Form I-290B which indicates that counsel needed 45 days to submit a brief and/or evidence, 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, counsel only repeats his request for 45 days in which to file matters in support of the appeal:

We request [the AAO] to grant us 45 business days to submit this "Brief on Appeal." Please be advised that the petitioner needs more time to provide supporting documentation. This would take approximately about 45 business days.

The Form I-290B was accompanied by a document, dated May 4, 2004 and entitled "Re: Brief on Appeal," which presents no basis for the appeal and only echoes the Form I-290B request for 45 business days of additional time.

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.