



U.S. Citizenship
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FILE: EAC 02 238 52781 Office: VERMONT SERVICE CENTER Date: AUG 08 2008

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:
[Redacted]

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 petitioner filed a Form I-129 petition for change in previously approved employment and extension of stay on July 12, 2002. Citizenship and Immigration Services (CIS) approved the petition on October 10, 2002, with the approved status being valid from August 12, 2002 until October 8, 2002. The petitioner then filed an appeal to the approval notice stating that the beneficiary was entitled to recapture time spent out of the United States during his six-year period of H-1B eligibility. The appeal will be rejected as there is no decision of the director denying a petition that is within the jurisdiction of the Administrative Appeals Office (AAO).

The jurisdiction of the Administrative Appeals Office is limited to that authority specifically granted to it by the Secretary of the United States Department of Homeland Security. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2004). The jurisdiction of the AAO is limited to those matters described at 8 C.F.R. § 103.1(f)(3)(E)(iii) (as in effect on February 28, 2003). Accordingly, the AAO has no authority to address the petitioner's appeal as there is no decision of the director denying a petition that is within the AAO's jurisdiction. Had the petitioner wanted the director to reconsider the decision, a motion should have been filed with the official who made the last decision in the proceeding. 8 C.F.R. § 103.5(a)(1)(ii). The appeal must, therefore, be rejected.

ORDER: The appeal is rejected.