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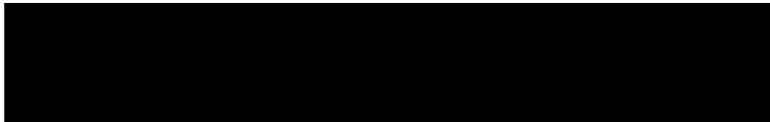
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FILE: EAC 05 031 50731 Office: VERMONT SERVICE CENTER Date: DEC 14 2005

IN RE: Petitioner:  
Beneficiary:



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.

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 provider of manpower resources. It seeks to employ the beneficiary as a physical therapist, and endeavors to classify him 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).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director determined that the beneficiary was inadmissible under section 212(a)(5)(c) of the Act, and that the petitioner failed to establish that a bona fide position existed that was being offered to the beneficiary based upon false and misleading information furnished in support of the Form I-129 petition. Accordingly, the petition was denied.

On appeal, the petitioner indicated on the Form I-290B that Citizenship and Immigration Services (CIS) erred in finding that the beneficiary was not qualified for the offered position, and further states that the petitioner has complied with applicable requirements for approval of the petition. The petitioner also stated that a brief would be filed within 30 days supporting the appeal. To date, no brief has been filed and the record is deemed complete. The petitioner did not, however, specifically identify any erroneous conclusion of law or statement of fact upon which the appeal is based. The appellant must do more than simply file an appeal. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

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.