

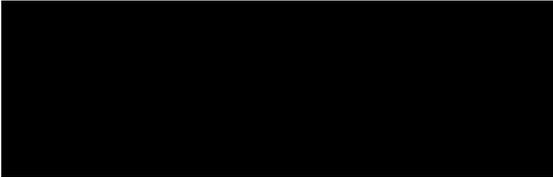
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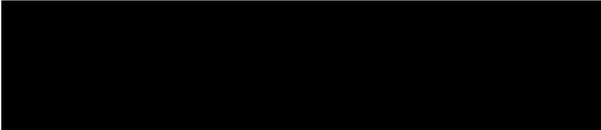
D2

FILE: EAC 03 219 53861 Office: VERMONT SERVICE CENTER Date: JUL 13 2005

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:



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.

fa *Michael T. Kelly*
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 wholesale distributor of dental products that seeks to employ the beneficiary as a professional dental sales manager. The petitioner, therefore, 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the basis that the proposed position was not a specialty occupation.

On December 9, 2003, counsel submitted Form I-290B (Notice of Appeal) without a brief or evidence. Although counsel marked the box at section two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days, the AAO has received neither.

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).

The only information that counsel submits about the basis of the appeal is this statement at section three of the Form I-290B:

The Center Director committed an error in finding that the job offer is nothing more than a simple salesperson staff position, and in denying the petition for that reason.

The petitioner will adduce additional evidence and refer to authoritative sources to convince the Service that the job offer is a specialty occupation, based on the complexity of the duties and job responsibilities, as well as the industry-wide practice of requiring at least a bachelor's degree in the indicated field (biomedical science). Evidence will also be introduced to show that the job offer has identical job requirements as, or is equivalent to, various professional and technical specialty occupations. Including the position of Sales Engineers, and thereby entitled to the same consideration under the INA.

Thus, counsel fails to identify how the director made any erroneous conclusion of law or statement of 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 these proceedings 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. The petition is denied.