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DA

JUN 22 2005

FILE: WAC 03 147 52092 Office: CALIFORNIA SERVICE CENTER Date:

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 materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for Michael T. Kelly
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a residential care facility for the elderly. It seeks to employ the beneficiary as an accountant and to classify her 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 ground that the record failed to establish that the proffered position qualifies as a specialty occupation.

On appeal counsel asserts that the director's decision was arbitrary and capricious. Counsel asserts that the petitioner "clearly established" that the duties of the position are so specialized and complex that their performance requires knowledge usually associated with a baccalaureate or higher degree. On the appeal form, filed April 7, 2004, counsel indicated that a brief and/or evidence would be submitted to the AAO within 30 days. No such brief or evidence was filed in the next 30 days, however, and in a telefax to the AAO dated June 1, 2005 counsel confirmed that no appeal brief or evidence has been filed in support of the appeal.

As specified in 8 C.F.R. § 103.3(a)(1)(v), "[a]n 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." The petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the decision. Accordingly, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed. The petition is denied.