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U.S. Citizenship
and Immigration
Services

22



FILE: EAC 03 085 54074 Office: VERMONT SERVICE CENTER Date: MAR 22 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:
[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 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 dismissed.

The petitioner is in the food service industry and operates a supermarket. It seeks to employ the beneficiary as a food service director/manager and 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 because the beneficiary did not qualify to perform the duties of a specialty occupation. On appeal, the petitioner submits a brief stating that counsel was never notified of the director's denial as required by regulation. As such, counsel asks that the director's initial decision be withdrawn and that the decision be reissued with a new date, and properly served on counsel of record so that the petitioner may have an opportunity to appropriately respond to the denial.

The director's initial decision was issued on May 6, 2003, and served on [REDACTED] former counsel for the petitioner. On April 26, 2003, CIS was notified that the petitioner was then represented by attorney [REDACTED] of the Law Firm of [REDACTED] and a new G-28 was appropriately filed. Despite this notice, the director served the initial denial on the petitioner's former counsel. On June 9, 2003, attorney [REDACTED] file an appeal on behalf of the petitioner after having learned of the denial from the petitioner's former counsel, stating that he had not been properly served with the director's denial and requesting that the denial be withdrawn, reissued, and re-dated giving the petitioner an opportunity to respond to the director's denial. On June 10, 2003, the director reissued his denial giving due and proper notice to the petitioner's current attorney of record. As such, the present appeal is moot as the relief requested therein has been granted by CIS.

ORDER: The appeal is dismissed.