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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 092 50359 Office: VERMONT SERVICE CENTER Date: NOV 02 2005

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Director, Vermont Service Center, denied the nonimmigrant visa petition as abandoned by the petitioner. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected because denial of a petition on the basis of abandonment is not subject to appeal.

In denying the petition as abandoned due to the petitioner's failure to respond to a request for additional evidence, the director invoked the regulation at 8 C.F.R. § 103.2(b)(13). The pertinent part of the regulation states:

Effect of failure to respond to a request for evidence or appearance. If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

The pertinent part of the regulation at 8 C.F.R. § 103.2(b)(15) states that a denial due to abandonment may not be appealed. As such a denial is the subject of the present appeal, the appeal must be rejected.

ORDER: The appeal is rejected.