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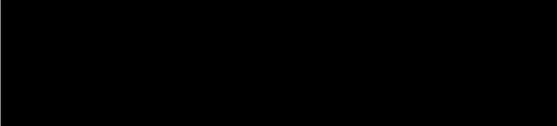
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DZ

FILE: SRC 03 206 50122 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



OCT 31 2005

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:



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 an acute care general hospital that employs the beneficiary as a radiology technologist, as authorized by a previously approved petition to employ the beneficiary as an H-1B 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). In order to continue this employment beyond the period approved in the initial petition, the petitioner endeavors to continue the beneficiary's H-1B classification and extend her stay.

The director denied the petition on the basis that the petitioner had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

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).

On August 10, 2004, counsel submitted a Form I-290B (Notice of Appeal) without a brief or evidence. Counsel entered a check mark at the box at section 2 of the form that indicates that he would send a brief and/or evidence within 30 days. However, by a facsimile transmission to the AAO on October 5, 2005, counsel stated that he neither had filed nor would file a brief or evidence on appeal. The Form I-290B, counsel's only submission on appeal, does not identify a basis for the appeal.

On November 15, 2004, the AAO received a three-page document entitled "Petition to request reconsideration of visa extension," dated November 8, 2004, that bears the handwritten names and addresses of 60 persons to endorse this statement:

We the undersigned employees of [the petitioner] humbly petition the Immigration and Naturalization Services to reconsider the extension of visa for [the beneficiary]. His contributions to professional healthcare within our facility have been invaluable. We feel that he is a much valued employee and contributing member of this community and we would be greatly affected by his absence.

The AAO recognizes this document as a submission by the petitioner, as its entry 43 includes the signature of the Director of Clinical Operations who signed the Form I-129 (Petition for Nonimmigrant Worker) and the G-28 (Notice of Entry of Appearance) on behalf of the petitioner. However, the document specifies no legal or factual error by the director:

Later, on November 30, 2004, the AAO received a letter from a Mr. Randall J. Wages that requests reconsideration of the director's decision on the basis of the beneficiary's academic degree, character, and work ethic. The letter is not properly before the AAO: it does not identify any relationship between the author and the petitioner, and there is no evidence that the author, who also submitted the letter, is an authorized representative of the petitioner. See 8 C.F.R. § 103.2(a)(3) (a petitioner's representative must be either an attorney or an accredited representative as defined in the regulations); 8 C.F.R. § 103.3(a)(2)(v)(A)(I) (an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed). Also, the letter does not provide a basis for appeal, as it does not identify any factual or legal error by the director.

Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact 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 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.