

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

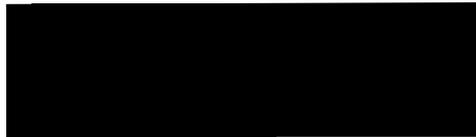
PUBLIC COPY



D2

FILE: LIN 04 165 51801 Office: NEBRASKA SERVICE CENTER Date: JUL 12 2006

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
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 software/hardware consulting company. It seeks to employ the beneficiary as a software/hardware consultant, and endeavors to classify him 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).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director determined that the petitioner failed to establish that it had a specialty occupation available for the beneficiary in the work location identified on the submitted Labor Condition Application (LCA). Accordingly, the petition was denied.

On appeal, counsel states that he will file a brief and/or additional information within 30 days in support of the appeal. The appeal was filed on February 7, 2005. To date, no brief or additional information has been filed. The record is, therefore, deemed complete. The only basis stated for the appeal was a statement made on the Form I-290B Notice of Appeal that the position offered qualified as a specialty occupation and that the position is based in St. Louis, Mo. The petitioner did not, however, specifically address the reasons for the director's denial, or specifically identify any erroneous conclusion of law or statement of fact upon which the appeal is based. The appellant must do more than simply ask for an appeal and state that the decision appealed from is incorrect. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

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.