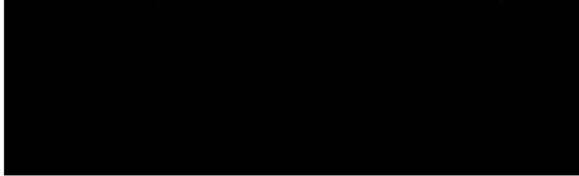




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02

FILE: WAC 03 209 50707 Office: CALIFORNIA SERVICE CENTER Date: MAR 28 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

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

The petitioner is an automobile dealer/repairer that seeks to employ the beneficiary as a mechanical engineer. The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

Counsel submitted a timely Form I-290B on August 24, 2004 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

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 the Form I-290B, counsel asserts that the director's decision is arbitrary and capricious. According to counsel, the director agreed that a mechanical engineer is a specialty occupation; however, the director concluded that automobile dealers do not require the services of mechanical engineers with baccalaureate degrees. The AAO finds that counsel's assertions fail to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition on the ground that the proposed position fails to qualify as a specialty occupation. 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.