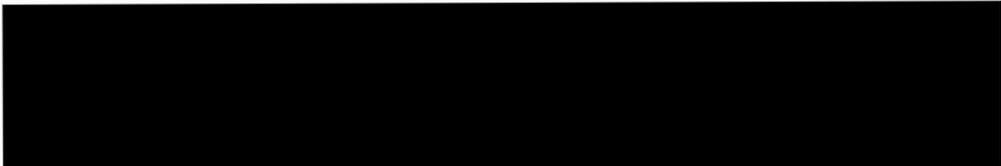


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prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
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FILE: WAC 04 255 53542 Office: CALIFORNIA SERVICE CENTER Date: **MAY 08 2006**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

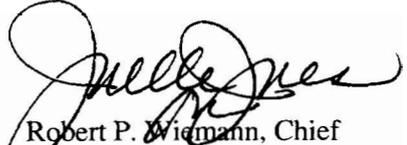
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is a computer workstation manufacturer. It seeks to employ the beneficiary as member of the technical staff (software) and to extend for a seventh year her classification as a 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).

The director denied the petition, by decision dated December 8, 2004, on the ground that the beneficiary did not qualify for an exemption from the normal six-year limit on H-1B status. Though section 106 of the American Competitiveness in the Twenty-First Century Act (“AC21”), as amended by section 11030(A)(a) and (b) of the 21<sup>st</sup> Century Department of Justice Appropriations Act, removes the six-year limitation on the authorized period of stay in H-1B status for certain aliens whose labor certification applications (Form ETA-9035) or employment-based immigrant petitions (Form I-140) remain undecided for 365 days or more, the director noted that the records of U.S. Citizenship and Immigration Services indicated that the employment-based immigrant petition filed on behalf of the beneficiary (WAC-04-090-51970) was denied (on December 9, 2004). An appeal of that decision was dismissed by the AAO on April 25, 2006.

On the appeal form in the instant proceeding, the petitioner states as follows: “Erroneously denied on basis of erroneous I-140 denial (appeal in preparation).” Since the AAO has determined that the I-140 petition was not erroneously decided, there is no employment-based immigrant petition currently pending for 365 days or more on which a seventh-year extension petition under AC21 can be based.

As specified in 8 C.F.R. § 103.3(a)(1)(v), “[a]n 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.” The petitioner has not specifically identified any erroneous conclusion of law or statement of fact in the decision of December 8, 2004. Accordingly, the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed. The petition is denied.