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U.S. Citizenship
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Services

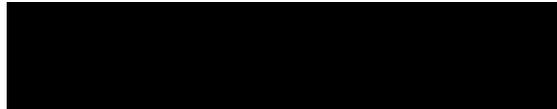
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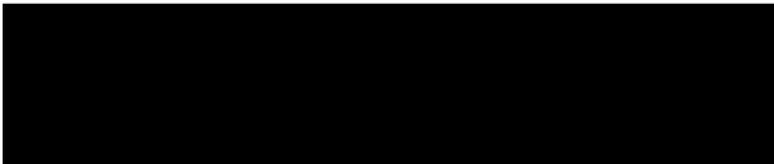
FILE: LIN 05 223 51742 Office: NEBRASKA SERVICE CENTER Date: SEP 28 2006

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
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 will be dismissed.

The petitioner filed the petition in order to continue employing in H-1B status a person who had been the beneficiary of three successful petitions to classify him as an H-1B 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). At the time the instant petition was filed, the beneficiary: had been continually present in the United States; was the beneficiary of three previous H-1B petitions that had been approved for a total period that reached the six-year maximum time that the relevant statute and implementing regulations allow for authorized stay in H status; had exceeded both the six-year maximum time allowed in H status and the period of time for which H-1B classification had been most recently approved; and was awaiting adjustment of status pursuant to an approved I-140 petition that had been filed and approved while the beneficiary was in H-1B status. The instant petition was filed after the expiration of the last period approved for the beneficiary's stay in H-1B status.

The petitioner invoked the American Competitiveness in the Twenty-First Century Act (AC21), as amended by the Twenty-First Century Department of Justice Appropriations Authorization Act, to allow approval of the H-1B visa petition. The director denied the petition based on his finding that AC21 was not applicable to the facts of the present petition.

Review of Citizenship and Immigration Services records indicates that, via a separate proceeding, the petitioner applied for adjustment of status (Form I-485, receipt number LIN 05 003 51751) in 2004 and became a lawful permanent resident as of March 31, 2006. Because the beneficiary in the instant petition has been adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed due to the beneficiary's adjustment of status to lawful permanent resident.