

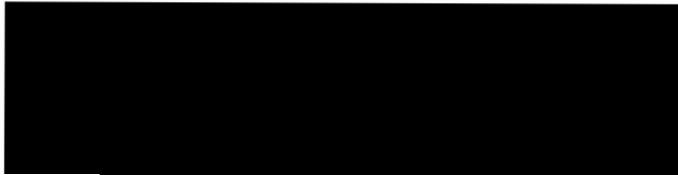
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U.S. Department of Homeland Security
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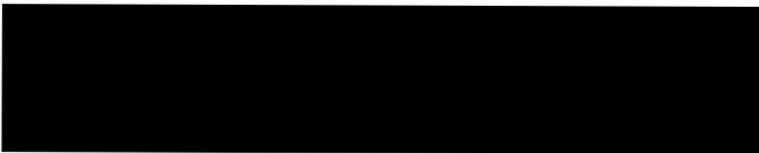
FILE: LIN 04 186 50391 Office: NEBRASKA SERVICE CENTER Date: **SEP 28 2006**

IN RE: Petitioner:
Beneficiary:



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.

A handwritten signature in cursive script, appearing to read "Robt 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 an IT development and consulting firm. In order to employ the beneficiary in a position designated Analyst/Programmer, the petitioner endeavors to classify the beneficiary 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 on the basis that the petitioner had failed to establish that the beneficiary is qualified to perform services in the pertinent specialty occupation in accordance with the regulatory requirements set forth at 8 C.F.R. § 214.2(h)(4)(iii)(C).

On February 11, 2005, counsel submitted a Form I-290B (Notice of Appeal) without a brief or evidence. Although counsel entered a check mark at the box at section 2 of the Form I-290B which indicates that he would send a brief and/or evidence within 30 days, the AAO had received neither. On July 10, 2006, the AAO transmitted a facsimile message to counsel notifying him that the promised appellate material had not been received, and allowing him a 5-day period in which to resubmit any brief and/or evidence that had been previously submitted in accordance with the statement at section 2 of the Form I-290B. The AAO has received no reply.

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).

At section 3 of the Form I-290B appears this handwritten statement: "Please see brief in support." The Form I-290B contains no comments about the basis of the appeal, and it was accompanied by neither a brief nor any other document setting forth grounds for the appeal. As already noted above, counsel did not respond to the opportunity, extended in July 2006, to submit the brief referenced at section 2 of the Form I-290B as forthcoming.

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.