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APR 02 2007

FILE: LIN 04 211 53289 Office: NEBRASKA SERVICE CENTER Date:

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, 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 specializes in the packaging, flavoring, processing, and sale of loose tobacco. It seeks to employ the beneficiary as a chemist, and endeavors to classify her 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 proffered position was not a specialty occupation. Accordingly, the petition was denied.

On appeal, counsel submits a statement from the petitioner's president who states that it would be beneficial to employ a chemist for various duties as needed. The president then lists some duties that the beneficiary may perform, and indicated that a chemist with a background in organic compounds and knowledge in the utilization of scientific techniques would provide an excellent resource as a consultant with whom to confer when the petitioner wished to develop its technical abilities for future expansion. The petitioner also submitted documentation (tobacco tax licenses for Michigan; quarterly tax returns; workers compensation reports; unemployment compensation tax reports) to show that it is a going concern. The director denied the petition stating that the proffered position does not qualify as a specialty occupation as the record does not establish that the petition satisfies any of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A). On appeal, the petitioner fails to address any of the director's concerns in denying the petition and did not 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. 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.