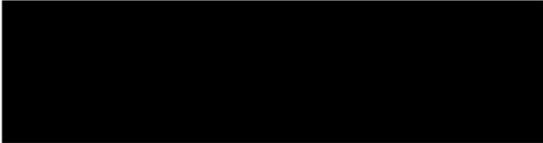




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



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FILE: LIN 05 233 51971 Office: NEBRASKA SERVICE CENTER Date: **JAN 22 2007**

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 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 Director, Nebraska Service Center, denied the nonimmigrant visa petition. The matter is now before the AAO. The appeal will be summarily dismissed. The petition will be denied.

The petitioner operates a medical clinic. It seeks to employ the beneficiary as a corrective therapist. Accordingly the petitioner endeavors to classify the beneficiary as a nonimmigrant 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).

On November 16, 2005, the director denied the petition determining that the record did not establish that the proffered position is a specialty occupation.

On December 19, 2005, the Nebraska Service Center received a Form I-290B, Notice of Appeal, indicating that a brief and/or additional evidence would be submitted to the AAO within 30 days. Careful review of the record reveals no subsequent submission of a brief or evidence; all of the petitioner's documentation in the record predates the issuance of the notice of decision. Accordingly, the record is considered 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).

Counsel's statement on the Form I-290B reads:

We respectfully disagree with the Service's determination regarding:

1. whether the position of Corrective Therapist is a specialty occupation;
2. whether a bachelor's degree is a minimum entry requirement for the position of Corrective Therapist;
3. whether the petitioner has sufficient work at the H-1B level to employ the beneficiary;
4. whether the degree requirement is common to the industry in analogous positions.

Counsel's statement on the Form I-290B is insufficient as a basis for the appeal. Counsel fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. Simply disagreeing with the director's decision is insufficient. Counsel must address how the director's findings or determinations are improper. As neither the petitioner nor counsel presents additional evidence or argument on appeal sufficient 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 summarily dismissed. The petition is denied