



U.S. Citizenship
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FILE: WAC 07 109 52568 Office: CALIFORNIA SERVICE CENTER Date: FEB 08 2008

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 is an IT consulting firm. It seeks to employ the beneficiary as a programmer analyst, and endeavors to classify him 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 denied the petition stating that the petitioner failed to submit a valid Labor Condition Application (LCA) in support of the Form I-129 petition. Accordingly, the petition was denied.

On appeal, the petitioner indicated on the Form I-290B that a brief would be filed within 30 days supporting the appeal. To date, no brief has been filed and the record is deemed complete. In support of the appeal, the petitioner states that the director's decision was "arbitrary, capricious, [a] misinterpretation of law, [a] miscarriage of justice, [and] a non-appreciation of material evidence submitted by the petitioner." The petitioner offers no additional evidence in support of the appeal. The petitioner did not address the basis of the director's denial, 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.