

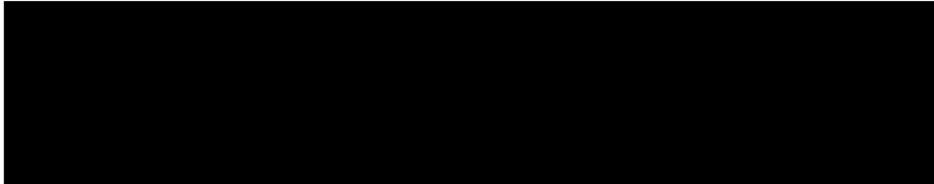
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U.S. Citizenship
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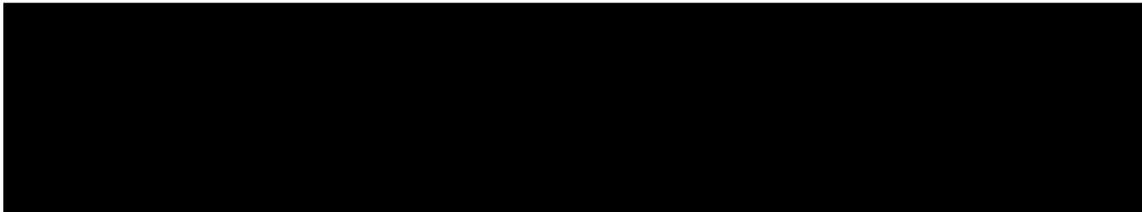
FILE: EAC 06 182 54610 Office: VERMONT SERVICE CENTER Date: FEB 28 2008

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 Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

The petitioner provides Montessori bilingual early childhood education services. It seeks to employ the beneficiary as an education market development associate. 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 December 26, 2006, the director denied the petition determining that the record did not establish that the proffered position is a specialty occupation.

On January 29, 2007, the Vermont 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. Further, in response to the AAO's facsimile requesting evidence that counsel had submitted a brief; counsel responded that none had been submitted. 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:

The Service erred on the finding that the petitioner has not established the proffered position is a specialty occupation. The detailed argument and the documentary evidence will be submitted in a separate package.

Counsel's assertion on appeal is insufficient as a basis for the appeal. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Counsel fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. Counsel does not address the director's findings or determinations regarding the evidence submitted. 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