

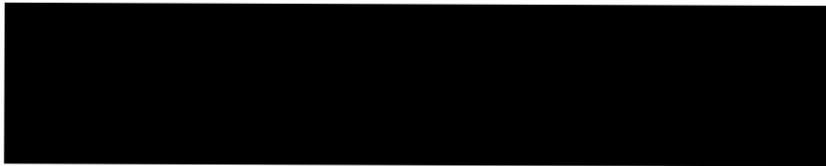
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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Room 3000
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U.S. Citizenship
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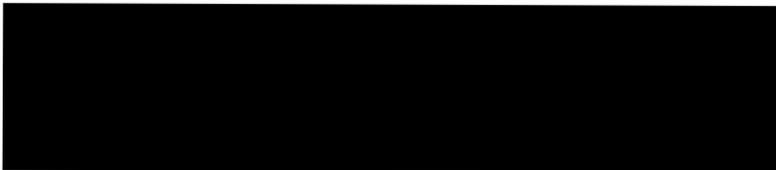
FILE: WAC 06 226 50497 Office: CALIFORNIA SERVICE CENTER Date: **JAN 02 2008**

IN RE: Petitioner:
Beneficiary:



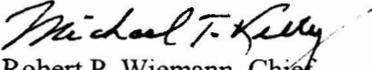
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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.

for 
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The 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 a physical therapy services provider that seeks to employ the beneficiary as its vice president of operations. The petitioner, therefore, endeavors to extend the beneficiary's nonimmigrant classification as a 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).

The director denied the petition on the basis of his determination that the petitioner had failed to demonstrate that the proposed position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the petitioner's Form I-290B and supporting documentation, including counsel's appellate brief. The AAO reviewed the record in its entirety before issuing its decision.

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 submitted the Form I-290B and a letter to the service center on April 5, 2007, which together comprise the appeal. Counsel states the following in her April 4, 2007 letter:

The submission in response to the Request for Evidence contained sufficient evidence to prove that the duties were complex and unique enough so as to require an individual with a degree in Business Administration.

Counsel states the following on the Form I-290B:

USCIS erred in deciding that the position of VP of Operations was not a Specialty Occupation. There was sufficient evidence submitted to show that the duties are complex and unique enough so as to require an individual with a degree in Business Administration.

The director set forth her reasoning in her March 13, 2007 decision. Counsel does not state *how* the director's reasoning was erroneous, only that it was erroneous. She is in essence asking the AAO to reconsider the evidence submitted in response to the director's request for additional evidence. As counsel has failed to identify any erroneous conclusion of law or statement of fact, or present any additional evidence not already contained in the record, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings 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.