

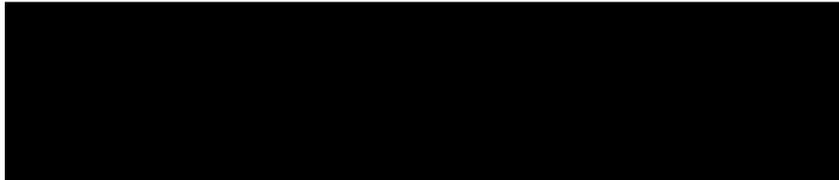
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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Room 3000
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U.S. Citizenship
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FILE: EAC 06 013 51267 Office: VERMONT SERVICE CENTER

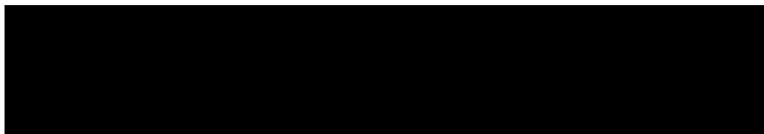
Date:

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 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, a manufacturer and installer of custom commercial kitchen equipment, seeks to employ the beneficiary as an electroplating specialist. The petitioner, therefore, endeavors to classify the beneficiary 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).

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 Form I-290B. The AAO reviewed the record in its entirety before issuing its decision.

Counsel submitted the Form I-290B on January 29, 2007. Counsel marked the box at section two of the Form I-290B to indicate that a brief and/or evidence would be sent within 90 days. The AAO never received this additional brief and/or evidence. As such, the AAO deems the record complete and ready for adjudication.

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).

The only new document submitted on appeal is the Form I-290B, which states the following, verbatim:

The beneficiary is a holder of a foreign diploma in chemistry and biology and is therefore a professional entitled to an H-1B classification.

The interview at the U.S. consulate is not a relevant factor to deny the petition. It was conducted by a hostile consular official who herself had no background in the electroplating process and made her decision having no scientific background. The alien presented all the pertinent documentation to the consular official. Her visa application was improperly denied.

Counsel fails to identify any specific erroneous conclusion of law or statement of fact for the appeal. In particular, the AAO notes that the appeal does not address the director's findings that the petitioner failed to provide copies of the beneficiary's academic transcripts and appropriate evaluations of the beneficiary's academic and training/experience credentials. As no additional evidence is presented on appeal 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 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 dismissed. The petition is denied.