



U.S. Citizenship  
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FILE: WAC 07 040 51725 Office: CALIFORNIA SERVICE CENTER Date: JUN 24 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 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 engaged in investment and financial management and seeks to employ the beneficiary as a market research analyst. 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.

The petitioner submitted the Form I-290B on July 16, 2007. Counsel for the petitioner marked the box at section two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days. As such, the AAO faxed a follow-up letter to the petitioner on March 26, 2008, requesting that the brief and/or additional evidence be sent within five business days. Counsel for the petitioner did not respond to the AAO's facsimile. Thus, the AAO deems the record complete and ready for adjudication.

On the Form I-1290B, the petitioner states that "the beneficiary's ETA 750 was pending for more than 365 days prior to the 6<sup>th</sup> year of H-1B1." The petitioner also submitted a Center Receipt Notification Letter, dated April 11, 2006, stating that the Application for Alien Employment Certification on behalf of the beneficiary was submitted on June 1, 2004, and has been forwarded to the Backlog Elimination Center. However, after a search of this application on the Department of Labor's Backlog Public Disclosure System, it appears that this application is closed.

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 petitioner fails to identify any erroneous conclusion of law or statement of fact for the appeal. 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 summarily dismissed. The petition is denied.