

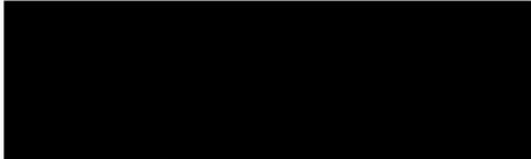
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: LIN 03 033 52853 Office: NEBRASKA SERVICE CENTER Date: **NOV 24 2008**

IN RE: Petitioner:
Beneficiary:



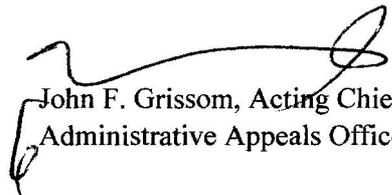
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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.


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a memory compiler development company that seeks to employ the beneficiary as a compiler engineer. 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 director denied the petition because the petitioner sought to extend the validity of the beneficiary's petition and period of stay in the H-1B classification beyond the maximum six-year period of stay in the United States. The director found that the beneficiary is not eligible to derive benefits pursuant to section 106(a) of the American Competitiveness in the Twenty-First Century Act of 2000, Pub. L. No. 106-313, 114 Stat. 1251 (AC21).

On appeal, counsel asserts that the director incorrectly adjudicated the petition under AC21, and that the beneficiary is eligible for an extension of stay pursuant to the Twenty-First Century Department of Justice Appropriations Act (DOJ Authorization Act).

A review of U.S. Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved immigrant petition and has adjusted status to that of a permanent resident as of April 20, 2005. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.