



U.S. Citizenship
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Services

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FILE: WAC 07 035 51716 Office: CALIFORNIA SERVICE CENTER Date: MAR 19 2008

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.

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 service center 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 describes itself as a consulting and staff augmentation company providing services in Information Technology consulting and software development, as well as clinical research. It seeks to employ the beneficiary as a software developer, and endeavors to classify him 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).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director denied the petition stating that: the petitioner did not qualify as an agent or U.S. employer and was not eligible to file an H-1B petition; it could not be determined that the proffered position was a specialty occupation; and the petitioner failed to submit a valid Labor Condition Application (LCA).

On appeal, the petitioner indicated on the Form I-290B that a brief and/or additional evidence would be filed within 30 days supporting the appeal. To date, no brief or additional evidence has been filed and the record is deemed complete. The petitioner stated on the Form I-290B that the petitioner has contracts with ultimate end users of the beneficiary's services, and that it submitted a valid LCA. The petitioner offers no other basis for the appeal and did not specifically identify any erroneous conclusion of law or statement of fact upon which the appeal is based. The appellant must do more than simply file an appeal. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

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 dismissed.