

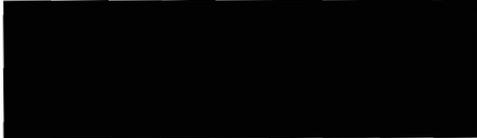


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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



APR 27 2001

File: LIN 00 099 50046 Office: Nebraska Service Center Date:

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

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

Public Copy

IN BEHALF OF PETITIONER: [Redacted]

Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenberg
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner engages in the business of wholesale jewelry. It seeks classification of the beneficiary as a jewelry casting model maker for a period of eleven months. The Department of Labor determined that a temporary certification by the Secretary of Labor could not be made. The director determined that the petitioner had not established that the need for the services to be performed is temporary.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

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.

On the Notice of Appeal to the Administrative Appeals Unit (Form I-290B), counsel states that the position of jewelry casting model maker is a temporary position and that the beneficiary be classified as an H-2B temporary worker. Counsel also states that there is new countervailing evidence to persuade the Service that the recommendation of the Department of Labor is incorrect.

Counsel indicated that he was sending a brief and/or evidence to the Administrative Appeals Unit on or before September 13, 2000. Careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. Consequently, the record must be considered complete.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, 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.