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U.S. Department of Justice
Immigration and Naturalization Service

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



File: SRC 01 220 52342 Office: Texas Service Center

Date: JUN - 6 2002

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)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, who certified his decision to the Associate Commissioner for Examinations for review. The decision of the director will be withdrawn and the matter remanded to him for further action and consideration.

The petitioner seeks to employ the beneficiary as a cleaner/housekeeper for a period of seven months. The director denied the petition because it was not accompanied by a temporary labor certification from the Department of Labor or notice detailing the reasons why such certification cannot be made. It is noted that the aforementioned notice was provided by the petitioner.

Additionally, the director considered this petition as an application for extension of stay for multiple agricultural workers pursuant to section 101(a)(15)(H)(ii)(a) of the Act. Inasmuch as this is not a petition for an agricultural worker, it should have been considered pursuant to section 101(a)(15)(H)(ii)(b). Accordingly, the matter will be remanded to the director for that purpose.

ORDER: The director's order is withdrawn. The matter is remanded to him for further action and consideration consistent with the above discussion and the entry of a new decision which, if adverse to the petitioner is to be certified to the Associate Commissioner for review.