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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

FILE: EAC 02 257 53607 OFFICE: VERMONT SERVICE CENTER

DATE: SEP - 4 2002

IN RE: PETITIONER:
BENEFICIARY

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: SELF-REPRESENTED

INSTRUCTIONS:

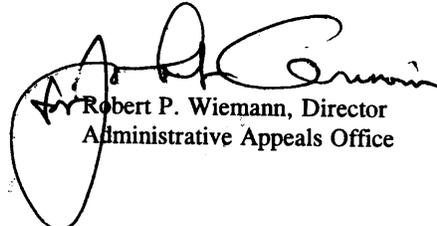
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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 approved by the Director, Vermont Service Center, who certified the decision to the Associate Commissioner for Examinations for review. The decision of the director shall be affirmed.

The petitioner is an agent, filing to bring bricklayers into the United States on a temporary basis so that they may be employed by a joint venture company named Connecticut Masons, Joe Capasso Masonry JTV LLC.

The certifying officer of the Department of Labor determined that the temporary labor certification filed by the petitioner could not be approved because it had been filed on behalf of multiple entities.

8 C.F.R. 214.2(h)(6)(iv)(A) requires that a petition for temporary employment in the United States be accompanied by a temporary labor certification from the Department of Labor, or notice detailing the reasons why such certification cannot be made. 8 C.F.R. 214.2(h)(6)(iv)(E) states that a petition not accompanied by a temporary labor certification must be accompanied by countervailing evidence from the petitioner that addresses the reasons why the Secretary of Labor could not grant a labor certification.

The director found that petitioner had submitted convincing evidence to establish that Connecticut Masons, Joe Capasso Masonry JTV LLC is one business entity. The director then determined that the petitioner had submitted sufficient countervailing evidence that qualified workers in the United States were not available, that the employment policies of the Department of Labor have been observed, and that the positions offered are temporary.

After review of the evidence contained in the record, the decision of the director is found to be correct.

ORDER: The decision of the director is affirmed. The visa petition is approved.