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U.S. Citizenship
and Immigration
Services



FILE: SRC 03 220 51001 Office: TEXAS SERVICE CENTER Date:

MAR 04 2004

IN RE: Petitioner:
Beneficiaries:



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)

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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, Texas Service Center, and certified to the Administrative Appeals Office (AAO) for review. The petition will be denied because the approval is now moot.

The petitioner engages in the business of architectural arts. It seeks to employ the beneficiaries as plasterers for four months. The Department of Labor determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that sufficient countervailing evidence had been submitted to show that qualified persons in the United States are not available, that the employment policies of the Department of Labor have been observed, and that the need for the services to be performed is a one-time occurrence and temporary.

After review of the evidence contained in the record, the decision of the director is found to be correct. However, the regulation at 8 C.F.R. § 214.2(h)(9)(ii)(B) states that, if a petition is approved after the date the petitioner indicates that the service will begin, the approved petition and approval notice should show a validity period commencing with the date of approval and ending with the date requested by the petitioner.

The petition should have been approved for the requested time period. This decision will have no practical effect because the period of requested employment has passed. Therefore, the petition must be denied.

ORDER: The petition is denied because the matter is moot due to the passage of time.