

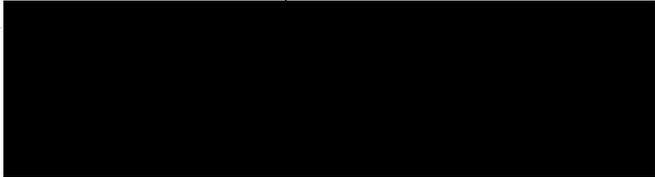
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U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. A3042
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U.S. Citizenship
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Services

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FILE: WAC 04 059 51986 Office: CALIFORNIA SERVICE CENTER Date: JUL 25 2005

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(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 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 is a general engineering contracting firm that seeks to employ the beneficiary as a construction engineer. The petitioner, therefore, endeavors to classify the beneficiary 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).

The director denied the petition on the basis that the proposed position was not a specialty occupation.

On March 26, 2004, counsel submitted Form I-290B (Notice of Appeal) without a brief or evidence. Although counsel marked the box at section two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days, the AAO has received neither. The AAO sent a follow-up letter to counsel's office on June 15, 2005, requesting that the brief and/or additional evidence be sent within five days and has received no response. Thus, the AAO deems the record complete and ready for adjudication.

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. 8 C.F.R. § 103.3(a)(1)(v).

The only information that counsel submits about the basis of the appeal is this statement at section three of the Form I-290B:

In its denial, the Service Center indicated that the job duties approximated those of a construction manager, not [a] construction engineer. However, the duties [REDACTED] will perform clearly reflect engineering skills and although his degree is in construction management, it contains a major concentration of engineering subjects. The Service Center rejected evidence that Petitioner employs many individuals who possess bachelor's degrees and who hold similar positions to [REDACTED] because copies of their degrees were not provided. There was no reason to doubt the credibility of the employer and had the Service Center requested copies of the degrees we would have submitted them.

However, there is no evidence to support counsel's assertions. As neither counsel nor the petitioner presents additional evidence on appeal to overcome the decision of the director, 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. The petition is denied.