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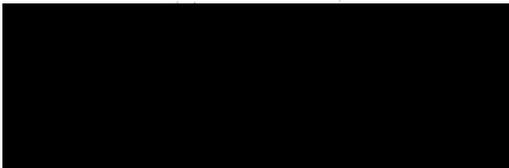


FILE: LIN 05 800 08264 Office: NEBRASKA SERVICE CENTER Date: JUN 13 2005

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

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

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 construction company that seeks to employ the beneficiary as a trainee. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(iii). The director denied the petition on the basis that the petitioner did not establish that a valid, structured training program with a fixed schedule existed. The director also found that the beneficiary already possessed substantial training and expertise in the field of proposed training. The director stated that the petitioner did not establish that the training is unavailable in the beneficiary's home country or that the training would be used outside the United States. Finally, the director found that the petitioner does not have sufficient personnel or facilities to conduct the training.

Counsel submitted a timely Form I-290B on March 3, 2004 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. On May 18, 2005, the AAO requested counsel to provide a copy of any brief or additional evidence that was filed. Counsel for the petitioner indicated that no brief or additional evidence was filed. Therefore, the record is complete.

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).

On the Form I-290B, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel 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 this proceeding 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.