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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: WAC 05 059 51011 Office: CALIFORNIA SERVICE CENTER Date: JUN 15 2005

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 director denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

In order to employ the beneficiary as a concrete worker for a period of twelve months, the petitioner, a decking company, endeavors to classify the beneficiary as a temporary nonagricultural 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).

The director denied the petition on the basis that the petitioner had failed to obtain a temporary labor certification from the Department of Labor (DOL), or a notice stating that such certification could not be made, prior to filing the H-2B petition.

The petitioner submitted a timely filed Form I-290B (Notice of Appeal) and cover letter on March 18, 2005. The cover letter consisted of a single sentence: "This is in reference to the file #WAC 05 059 51011, in which I am applying for a work permit and labor certification and for the nine others [sic]." The Form I-290B stated "[a]s this is the first time I have filed a petition, I was unaware of the temporary labor certification. Thank you[.] I am currently waiting for these certifications."

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 petitioner fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. As no additional evidence is presented 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.