



U.S. Citizenship  
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FILE: WAC 04 258 51651 Office: CALIFORNIA SERVICE CENTER Date: JUN 30 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 revoked approval of 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 an architecture firm that seeks to employ the beneficiary as an architectural technician 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 because the petitioner did not establish that it has either appropriate staff or physical plant to provide the proposed training. The director also determined that the training is general in nature with no fixed schedule, objectives or a means of evaluation. The director also found that the petitioner did not demonstrate that the beneficiary would not be placed in a position that is in the normal operation of its business and in which citizens and resident workers are regularly employed. The director stated that it appeared that the beneficiary would be engaged in productive employment beyond that which is incidental to the training. Finally, the director stated that the petitioner failed to establish that the proposed training is unavailable in the beneficiary's home country and that the beneficiary would be able to utilize the training outside the United States.

Counsel submitted a timely Form I-290B on March 25, 2005 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. On June 10, 2005, the AAO notified counsel that no brief had been received and requested that any brief or evidence be submitted within five days. Counsel did not reply to the faxed notification.

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 counsel nor the petitioner presents any additional argument or 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.