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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: LIN 00 106 50397 Office: Nebraska Service Center

Date: APR 27 2001

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)

IN BEHALF OF PETITIONER: [Redacted]

Identification data deleted to
prevent clearly unwarranted
invasion of personal privacy.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a tool and die company. It seeks classification of the beneficiary as a lead sharpener for a period of three months. The director determined that the petitioner did not establish that a valid, structured training program exists. The director also determined that the beneficiary already possessed substantial training and expertise in the proposed field of training. Finally, the director decided that the petitioner did not establish that the training will benefit the beneficiary in pursuing a career outside the United States.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

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.

On the Notice of Appeal to the Administrative Appeals Unit (Form I-290B), counsel states that the petitioner has a valid, structured training program. Counsel also states that the beneficiary possesses substantial training and expertise in the proposed field and that the knowledge or skill gained through the training would be used outside the United States.

Counsel indicated that he was sending a brief and/or evidence to the Administrative Appeals Unit on or before August 23, 2000. Careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. Consequently, the record must be considered complete.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must 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 summarily dismissed.