



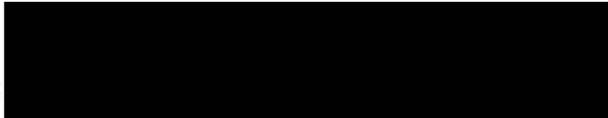
U.S. Citizenship
and Immigration
Services

D1



FILE: EAC 08 131 50899 Office: VERMONT SERVICE CENTER Date: DEC 01 2009

IN RE: Petitioner:
Beneficiary:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the service center director and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

On the Form I-129, Petition for a Nonimmigrant Worker, the petitioner states that it provides software tech/development solutions, that it was established in 2003, that it employs 14 persons, and that it has a gross annual income of \$3,660,000 and a net annual income of \$70,000. It seeks to employ the beneficiary as a programmer analyst from April 1, 2008 to December 21, 2010. Accordingly, the petitioner 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).

On June 19, 2008, the director denied the petition, determining: that the petitioner failed to establish that the proffered position qualified as a specialty occupation; that the Form ETA 9035E, Labor Condition Application (LCA) was not valid for the locations of all intended employment; and that the petitioner had not submitted a complete itinerary for the proposed employment. The Form I-129 petition in this matter was filed April 1, 2008.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that, subsequent to the filing of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. USCIS records further indicate that this other employer's petition was approved, which granted the beneficiary H-1B status from May 30, 2008 to December 20, 2010. Because the beneficiary in the instant petition has been approved for employment with another petitioner, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed as moot.