

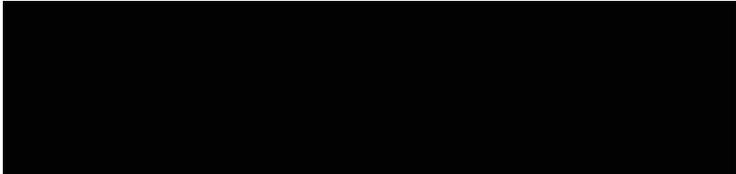


U.S. Citizenship
and Immigration
Services

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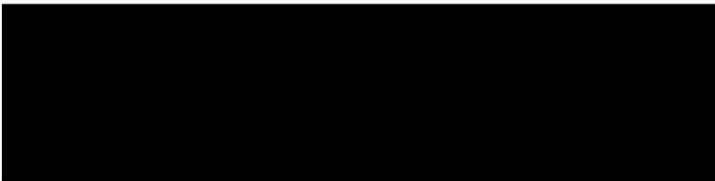


FILE: SRC 04 252 52418 Office: TEXAS SERVICE CENTER Date: FEB 21 2006

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

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.

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 retailer/wholesaler of herbal medicine. It seeks to employ the beneficiary as a herbal medicine specialist, and endeavors to classify her 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).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director determined that the proffered position was not a specialty occupation. Accordingly, the petition was denied.

On appeal, counsel states that he will file a brief and/or additional information within 30 days in support of the appeal. The appeal was filed on August 29, 2005. To date, no brief or additional information has been filed. The record is, therefore, deemed complete. The only basis stated for the appeal were statements made on the Form I-290B Notice of Appeal to the effect that that “. . . The Service Center erred in finding that the position of herbal medicine specialist is not a specialty occupation. . . .”, and that the Service Center based its decision on the beneficiary’s credentials “as dispositive of the requirements of the position.” As previously stated, the director denied the petition because the proffered position is not a specialty occupation. The petitioner simply states that the director erred, but does not specifically identify any erroneous conclusion of law or statement of fact upon which the appeal is based. The appellant must do more than simply ask for an appeal and state that the decision appealed from is incorrect. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

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.