



U.S. Citizenship
and Immigration
Services

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FILE: LIN 04 257 52091 Office: NEBRASKA SERVICE CENTER

Date: JAN 22 2007

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:

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.

A handwritten signature in black ink that appears to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the nonimmigrant visa petition. The matter is now before the AAO. The appeal will be summarily dismissed.

The petitioner operates a health care/physician's office. It seeks to employ the beneficiary as a clinical statistician/analyst. Accordingly the petitioner endeavors to classify the beneficiary as a nonimmigrant 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 January 25, 2005, the director denied the petition determining that the record did not establish that the proffered position is a specialty occupation. On March 15, 2005 the director reopened the matter as the petitioner's Form I-290B Notice of Appeal, was untimely filed and issued a second decision affirming his first decision. On April 19, 2005, the petitioner filed a Form I-290B, Notice of Appeal to appeal the director's March 15, 2005 decision. On July 21, 2005, the director affirmed his motion decision, after considering the petitioner's additional evidence. The director again properly determined that the petitioner had filed an untimely appeal.

On August 23, 2005 the petitioner timely filed a Form I-290B to appeal the director's July 21, 2005 decision. The Form I-290B indicated that brief and/or additional evidence would be submitted to the AAO within 30 days. Careful review of the record reveals no subsequent submission of a brief or evidence; all of the petitioner's documentation in the record predates the issuance of the notice of decision. Accordingly, the record is considered complete.

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's statement on the Form I-290B reads:

The petitioner is collecting additional evidence that will prove there is [sic] sufficient H-1B level duties for the beneficiary. Further that the statistical analysts will increase the petitioner's profit margin and increase care services.

The petitioner's statement on appeal is insufficient as a basis for the appeal. The petitioner fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. The petitioner does not address any of the director's findings or determinations regarding the evidence submitted. As the petitioner does not present additional evidence or argument on appeal sufficient 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 summarily dismissed. The petition is denied.