



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

b2



FILE: WAC 07 131 50012 Office: CALIFORNIA SERVICE CENTER Date: **APR 20 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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, 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 for-profit enterprise engaged in prototype and production of plastic injection and compression molding, tooling and parts for the automotive industry. It seeks to employ the beneficiary as an industrial production manager. 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). The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

Counsel submitted a timely Form I-290B on November 2, 2007 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

It is noted that, on September 15, 2008, the AAO sent a facsimile transmission to counsel, advising that no evidence or brief had been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. Counsel responded via fax on September 22, 2008, and confirmed that no brief or evidence in support of the appeal had been filed. Counsel stated in the facsimile transmission that instead of a brief, "the petitioner relies on the application, supporting evidence and documents filed in response to the Request for Evidence issued by the USCIS California Service Center. Based upon the same it is the petitioner's position that that CSC erred in determining that the position did not qualify as a specialty occupation and that the beneficiary was not qualified for the position."

The director, however, provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. While counsel claimed on appeal that the director erred in determining that the position did not qualify as a specialty occupation and that the beneficiary was not qualified for the position, counsel did not specifically identify what part of the director's analysis was incorrect and the reason(s) why it was incorrect. Generally stating the director's conclusions without identifying any specific errors in the analysis is insufficient. In other words, counsel's general objections on the Form I-290B and the facsimile transmission, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence or lack of evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

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). Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel presents additional 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 summarily dismissed.