

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D2



FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: DEC 29 2010

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:
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Perry Rhew
Chief, Administrative Appeals Office

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

In the Form I-129 visa petition, in describing its business, the petitioner stated "See support letter." In a letter submitted with the visa petition, the petitioner's president stated that the petitioner is an information technology services company. To employ the beneficiary in what it designates as a systems analyst position, the petitioner endeavors to classify him as a nonimmigrant worker in a specialty occupation 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).

The director denied the petition on October 16, 2009 because he determined that the petitioner failed to demonstrate that it would employ the beneficiary in a specialty occupation and failed to demonstrate that the labor condition application submitted to support the visa petition is valid for employment in the location where the beneficiary would work. On appeal, counsel contended that the director's decision to deny the petition does not accord with the evidence of record and, therefore, should be overturned.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on April 19, 2010, a date subsequent to the denial 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 on September 30, 2010, which granted the beneficiary H-1B status from October 1, 2010 to September 21, 2013. Further still, on November 17, 2010 a third employer filed a Form I-129 visa petition on the beneficiary's behalf. That visa petition was approved on December 12, 2010, granting the beneficiary H-1B status from November 30, 2010 to November 15, 2013. Because the beneficiary in the instant petition has been approved for employment with other petitioners, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed. The petition is denied.