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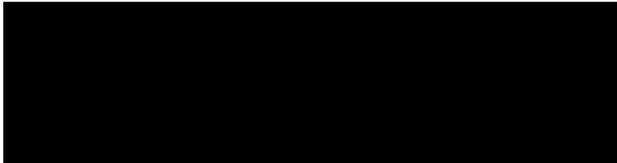
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D2



FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER

Date: JUN 01 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:



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 \$585. 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

Chief, 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 describes itself as a full-service student transportation company. To employ the beneficiary in a position to which the petitioner ascribes the title "Financial Controller," the petitioner filed this H-1B petition 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 because he determined that the petitioner had not submitted a Labor Condition Application (LCA) corresponding to the petition, as the LCA was certified for a part-time position at \$19.93 per hour, but the response to the service center's request for additional evidence indicates that the beneficiary would work 40-43 hours per week (which conflicts with the statements in the Form I-129 and the letter of support filed with it that the petitioner's wages would be "\$40,000 annualized" for a job requiring 20 hours of work per week).

On November 10, 2008, counsel for the petitioner submitted a Form I-290B (Notice of Appeal or Motion) without a brief or evidence. The only comment that counsel submits regarding the appeal is the following statement at Part 3 of the Form I-290B: "Appeal brief to follow within 30 days."

Although counsel checked box B at section 2 of the Form I-290B, indicating that she would send a brief and/or evidence within 30 days, the AAO has received neither. Accordingly, the record of proceeding is deemed complete as currently constituted.

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.