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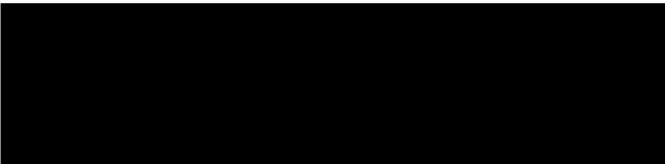
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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FILE:  Office: CALIFORNIA SERVICE CENTER Date: **JUN 01 2010**

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:

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 director of the 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 dismissed as moot.

The petitioner is a systems integration and software development company that seeks to employ the beneficiary as a computer programmer analyst. The petitioner, therefore, 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 three grounds: (1) that the petitioner had failed to demonstrate that it meets the regulatory definition of an "employer" and that it will engage in an employer-employee relationship with the beneficiary; (2) that the petitioner had failed to demonstrate the existence of a specialty occupation, as it had not submitted an itinerary of services to be performed; and (3) that the petitioner had not established that it would comply with the terms and conditions of the labor condition application (LCA) certified for the location of intended employment.

A review of the records of Citizenship and Immigration Services indicates that this beneficiary is also the beneficiary of an approved immigrant petition. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary was approved as the beneficiary of an immigrant petition and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.