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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



D2

Date: **MAY 03 2012** Office: VERMONT SERVICE CENTER

File:

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:



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,

Michael T. Kelly
for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the Vermont Service Center on [REDACTED]. The petitioner described its type of business on the Form I-129 as "apparel designer, importer, wholesaler" with five employees.

In order to employ the beneficiary in what it designates as an operations manager, the petitioner seeks 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions.

[REDACTED] submitted a Notice of Appeal or Motion (Form I-290B) and checked Box B in Part 2 of the form to indicate that she was filing an appeal and would send a brief and/or additional evidence within 30 days.

The only comment that counsel submits about the appeal is the following statement at Part 3 of the Form I-290B:

The position offered by Petitioner to Beneficiary qualifies as a specialty occupation as defined by 8 CFR § 214.2(h)(4)(iii)(D)(1)-(2)-(3)-(4)). Service Center failed to review all the evidence contained in the record. Appellate brief and additional evidence will be submitted within 30 days.

Counsel's statement on appeal contains no specific assignment of error. Although counsel stated that she would send a brief and/or evidence, the AAO has received neither. Accordingly, the record of proceeding is deemed complete as currently constituted.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "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."

In the instant case, the petitioner and counsel have failed to identify an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.