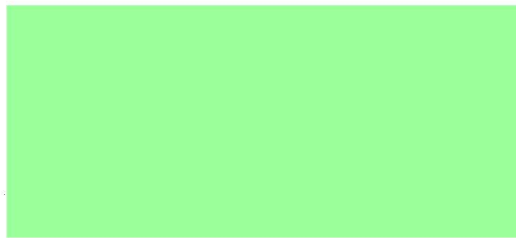




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **SEP 26 2014**

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,  
  
Ron Rosenberg  
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, filed December 30, 2013, the petitioner described itself as a dental surgery firm. In order to employ the beneficiary in what it designates as a database administrator position, the petitioner seeks 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 February 14, 2014 because she determined that the petitioner failed to demonstrate that it would employ the beneficiary in a specialty occupation position. On appeal, counsel contended that the proffered position qualifies as a specialty occupation position, but did not provide any additional evidence or argument.<sup>1</sup>

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on April 8, 2014, subsequent to the denial of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on April 11, 2014. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, further pursuit of the matter at hand is moot.

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

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<sup>1</sup> On the Form I-290B appeal, counsel checked a box indicating that a brief or additional evidence was being submitted with the appeal. On that appeal form, counsel also stated, "The proffered job qualifies as a specialty occupation. See supporting brief submitted herewith." No such brief was included with that appeal. It is also noted that no further evidence or argument was submitted with the Form I-290B or subsequently submitted. We observe that if the appeal were not to be dismissed as moot, it would be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v) which 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."