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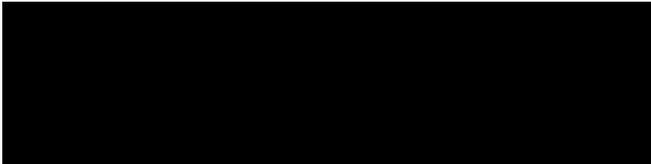
FILE: WAC 03 161 54664 Office: CALIFORNIA SERVICE CENTER Date: **DEC 27 2005**

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



## INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
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 is retail store. In order to employ the beneficiary as a retail sales manager with bi-lingual ability, the petitioner 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b). The director denied the petition on the basis that the petitioner had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

Counsel submitted a Form I-290B (Notice of Appeal) without a brief, but with copies of documents that the petitioner had previously submitted into the record and a Prevailing Wage Request Form (PWR Form) issued by the Development Department, State of California.

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).

Neither the PWR Form nor the copies of previously submitted documents that accompany the Form I-290B specify a basis for appeal. The only information that counsel submits about the basis of the appeal is the statement at section 3 of the Form I-290B, here copied verbatim:

The initial evidence that the Petitioner described the duties of the Store Manager was not enough for the Center to approve this petition.

The Petitioner, [REDACTED] planning to expand business in Mexico, Argentina preparing, and [sic] train the beneficiary in the management training, contro [sic], and maintain the high standarts [sic] following the Corporation Policies.

The beneficiary is well educated in the Management area and his expertise, knowledge make him a valuable professional highly recommended to be employed by our Company wih [sic] his extensive knowledge of development Franchise units.

As a Store Manager responsible of the Petitioner [REDACTED]

The beneficiary will be at the Petitioner Store and he will be training at the 7-Eleven Corporation to get a Certificate of Graduation well trained in the Financial Area, and high productivity Store in the next near future.

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 dismissed.