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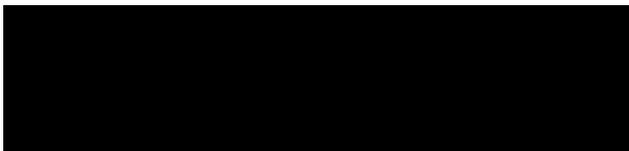


FILE: SRC 04 060 51468 Office: TEXAS SERVICE CENTER Date: OCT 14 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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 a car wash business. In order to employ the beneficiary as an accountant, 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).

On October 12, 2004, counsel submitted a Form I-290B (Notice of Appeal) without a brief or evidence. Although counsel entered a check mark at the box at section 2 of the Form I-290B which indicates that he would send a brief and/or evidence within 90 days, the AAO had received neither. In reply to an August 11, 2005 AAO facsimile message that notified counsel of a 5-day period in which to submit a brief or evidence, counsel has submitted a letter, dated August 15, 2005, and copies of the following documents: counsel's June 18, 2004 letter of reply to the director's request for evidence (RFE); sections of the evaluation report from Global Education Group, Inc. (GEC) on the beneficiary's work experience, which had been previously submitted in response to the RFE; and a diploma, in Spanish, from Collegio Commercial [REDACTED]

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).

The only information on the Form I-290B about the basis of the appeal is this generalized statement at section 3 of the form:

The decision states “. . . [Y]ou have failed to show a car was [sic] business would require the services of a corporate accountant who is part of an executive decision-making team.”

The petitioner disputes this.

The only assertions in counsel's August 15, 2005 letter on appeal are that “the information supplied on June 18, 2004 was responsive to all issues on the RFE” (letter, at page 1), that “[the beneficiary] has satisfied all the requirements for [an] Immigrant [sic] Visa Petition” (letter, at page 2), and that “all requested information has been supplied by the Petitioner.” The RFE reply letter submitted with counsel's letter on appeal predated the director's decision and does not address the director's findings. Neither the diploma nor the previously submitted GEC documents are relevant to the specialty occupation issue, which is the basis of the director's decision.

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.