



U.S. Citizenship
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Services

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FILE: WAC 04 197 53234 Office: CALIFORNIA SERVICE CENTER Date: OCT 18 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:

SELF-REPRESENTED

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 dentist office that employs the beneficiary as a dental researcher/oral pathologist, as authorized by a previously approved petition to employ the beneficiary as an H-1B 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). In order to continue this employment beyond the period approved in the initial petition, the petitioner endeavors to continue the beneficiary's H-1B classification and extend her stay. 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).

The petitioner submitted a Form I-290B (Notice of Appeal) and elected to not submit a brief or evidence. The only information that the petitioner submits about the basis of the appeal is this statement at section 3 of the Form I-290B:

We conten[d] that all matters raised by the U.S. citizenship and immigration services in this notice of intent to deny was more than sufficiently dealt with, in the letter submitted in response by [the petitioner] on 10/04/2004. Please refer to that letter accordingly.

As the referenced letter is the petitioner's October 4, 2004 reply to the director's notice of intent to deny the petition, and since this letter predates the director's decision, issued on November 18, 2004, it specifies no legal or factual errors in that decision.

The petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As the petitioner presents no 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 AAO notes that the petition is for an extension of previously approved employment. Each nonimmigrant petition is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, CIS is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

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.