

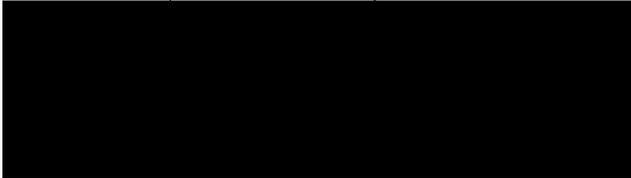
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U.S. Citizenship
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Services

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FILE: SRC 04 138 53048 Office: TEXAS SERVICE CENTER Date: OCT 05 2006

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:

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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the Texas Service Center 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 modeling and talent agency. It seeks to employ the beneficiary as a fashion model 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 based on her determination that the petitioner had failed to establish that the beneficiary is a model of distinguished merit and ability.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for evidence; (3) the director's denial of the Form I-129 based on abandonment; (4) counsel's motion to reconsider; (5) the director's letter reopening the matter and denying the petition; and (6) the Form I-290B, with counsel's addendum.

Counsel submits a timely filed Form I-290B and indicates that a brief and/or additional evidence will be submitted to the AAO within 30 days. Careful review of the record reveals no subsequent submission of a brief or evidence; all of the petitioner's documentation in the record predates the issuance of the notice of decision. Accordingly, the record is considered complete and has been reviewed in its entirety by the AAO.

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).

Counsel's statement on the Form I-290B reads, in pertinent part:

The Immigration Director in this case erred when denying the Petition for Nonimmigrant Worker. The Director states that the petitioner has not demonstrated that the petitioner and the beneficiary have met the requirements of [a] specialty occupation. The Director failed to recognize and take into consideration that the Petitioner did indeed determine that [the] Beneficiary is an alien of distinguished merit and ability in the field of fashion modeling and one who is prominent in the field of fashion modeling abroad.

Based on the evidence of record at the time of decision, the decision was based on an underestimated review of such documentation[.] Therefore, the Service shall consider the merit of the Beneficiary's prominence and qualifications. Such substantive errors of fact and law allow this Body to accept this instant appeal and review the material evidence for [the] record in order to provide a favorable decision.

Counsel's assertions are an insufficient basis for the appeal. Counsel fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. Counsel does not address any of the director's findings or determinations regarding the evidence submitted. As neither the petitioner nor counsel presents additional evidence or argument on appeal sufficient 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 summarily dismissed.