



U.S. Citizenship  
and Immigration  
Services

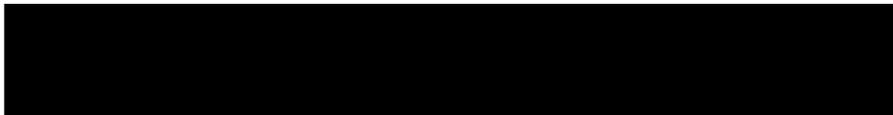
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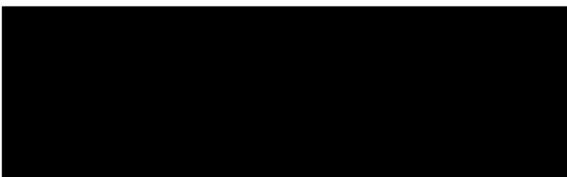
FILE: EAC 07 018 53111 Office: VERMONT SERVICE CENTER Date: **AUG 16 2007**

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(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 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 provides exterior and interior plastering services. The petitioner seeks to employ 2 named beneficiaries as plasterers pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b) for the period of November 1, 2006 to September 30, 2007. The Department of Labor (DOL) determined that a temporary labor certification (Form ETA-750) by the Secretary of Labor could not be made because the petitioner had not established that its need for the beneficiaries' services is temporary. The director denied the petition on December 7, 2006, concluding that insufficient countervailing evidence had been submitted by the petitioner to show that the need for the services to be performed is seasonal and temporary.

Counsel for the petitioner marked the box at section two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days. The AAO did not receive this additional brief and/or evidence. As such, the AAO faxed a follow-up letter to the counsel's office on July 19, 2007, requesting that the brief and/or additional evidence be sent within five business days. Counsel did not respond to the AAO's facsimile. Thus, the AAO deems the record complete and ready for adjudication.

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 has failed to identify any specific erroneous conclusion of law or statement of fact for the appeal. As no additional evidence is presented 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 these proceedings 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. The petition is denied.