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U.S. Citizenship
and Immigration
Services

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FILE: WAC 07 145 51762 Office: CALIFORNIA SERVICE CENTER Date: MAR 04 2009

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: 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a software consulting company. The petitioner seeks to employ the beneficiary as a systems analyst for a period of three years. Accordingly, 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, noting that the evidence of record did not establish that there existed a bona fide offer to employ the beneficiary in a specialty occupation. Specifically, the director noted that the proposed project upon which the beneficiary would work was not affiliated with the petitioner, nor were any contracts or other forms of evidence submitted to establish the beneficiary's working conditions. Therefore, the director concluded that the business location of the beneficiary was uncertain, and the lack of evidence, despite the specific requests for additional information in the request for evidence issued on May 24, 2007, cast doubt upon all aspects of the petition.

On appeal, the petitioner submits Form I-290B and states, "Detailed reason Document is attached. [T]hank you." In support of the appeal, the petitioner submits two documents entitled "[REDACTED]" and "[REDACTED]".

Counsel's brief statement on Form I-290B and the accompanying documentation, though abundant, did not address or specifically identify any errors on the part of the director, and is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner.

As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

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.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.