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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D2

FILE: EAC 08 157 51972

Office: VERMONT SERVICE CENTER

Date: **AUG 03 2010**

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the service center director and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner, a corporation that describes itself as “a Software Integration Services provider and Project Management firm,” filed this H-1B petition 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 based upon three independent grounds, namely, his determinations that the evidence in the record of proceeding failed to (1) provide the itinerary that the regulation at 8 C.F.R. § 214.2(h)(2)(i)(B) requires when a proffered H-1B position is to be performed at more than one location; (2) establish that the Labor Condition Application (LCA) corresponds to the petition with which it was filed; and (3) establish that the proffered position is a specialty occupation.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on April 10, 2009, a date subsequent to the filing of the instant petition, a different petitioner submitted a new Form I-129 on the beneficiary’s behalf. USCIS records further indicate that this second petition was approved on July 16, 2009, which granted the beneficiary H-1B status from October 1, 2009 to September 9, 2012. Because the beneficiary in the instant petition has been approved for employment with another petitioner, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed. The petition is denied.