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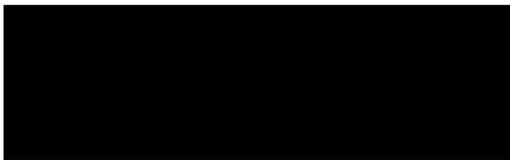
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D2



FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: JUL 02 2010

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

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 service center director denied the nonimmigrant visa petition that is now before the Administrative Appeals Office on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner describes itself as a software development firm. To employ the beneficiary as a programmer analyst, the petitioner endeavors to classify him as a 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).

The director denied the petition because she determined that the petitioner (1) failed to demonstrate that the petitioner would employ the beneficiary in a specialty occupation position; (2) failed to provide a complete itinerary as required by the regulations; and (3) failed to demonstrate that the labor condition certification upon which the visa petition relies is valid for the site or sites where the beneficiary would be employed. On appeal, counsel¹ contended that the director's decision to deny the petition does not accord with the evidence of record and, therefore, should be overturned.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that, subsequent to the filing of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. USCIS records further indicate that this other employer's petition was approved, which granted the beneficiary H-1B status from October 1, 2009 to August 29, 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.

¹ The petitioner is ostensibly represented by counsel. The record contains a Form G-28 Notice of Entry of Appearance and other documents signed by the petitioner's claimed counsel. However, on June 14, 2010, the AAO sent a facsimile transmission to counsel requesting, pursuant to 8 C.F.R. § 292.4(a), that he or she submit, within five business days, evidence showing admission to the bar and a certificate of good standing. Counsel did not respond to that request. All representations will be considered, but the petitioner's counsel will not be recognized as counsel of record and will not receive a copy of this decision.