

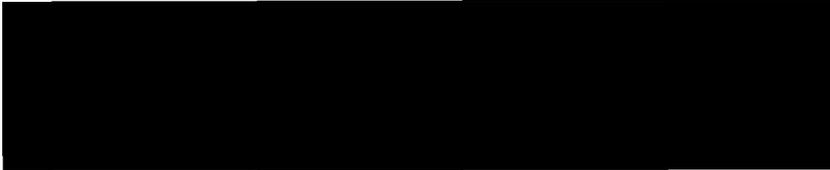
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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

**PUBLIC COPY**



D2

FILE: EAC 06 247 51974 Office: VERMONT SERVICE CENTER

Date: **MAR 02 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:

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, as required by 8 C.F.R. § 103.5(a)(1)(i).

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 on appeal. The appeal will be dismissed as the matter is now moot.

The petitioner filed a timely appeal after the service center director denied the petition on two independent grounds, namely: (1) that the numerical limitation on H-1B petitions for the relevant fiscal year (the H-1B cap) was reached before the petition was filed, and (2) that the evidence of record does not establish the proffered position as a specialty occupation. However, the petitioner's beneficiary subsequently submitted a letter in which she requests "withdrawal of application of the petition" because she "is not interested with [sic] the said application."<sup>1</sup> The letter is the final document submitted into the record.

The regulation at 8 C.F.R. § 103.2(a)(3) specifically states that a beneficiary of a visa petition is not a recognized party. Accordingly, the beneficiary's letter does not effect a withdrawal of the appeal. However, as the beneficiary's letter renounces her interest in the petition and indicates that she will not take the proffered position if the appeal were sustained and the petition approved, further pursuit of the matter at hand is moot.<sup>2</sup>

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

---

<sup>1</sup> The beneficiary cited the U.S. Citizenship and Immigration Services (USCIS) receipt number for this petition and attached the Form I-797C notice that USCIS had received the petitioner's request for Premium Processing.

<sup>2</sup> USCIS regulations do not permit a petitioner to change the person on whose behalf an H-1B petition has been filed.