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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

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FILE: WAC 08 003 54388 Office: CALIFORNIA SERVICE CENTER Date: **MAR 18 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:



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 (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner describes itself as a vocational school that seeks to employ the beneficiary as an instructor. The petitioner, therefore, 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 petition was initially approved. Upon review and after providing the petitioner a chance to respond to a Notice of Intent to Revoke (NOIR), the director revoked the petition on January 7, 2010, because the evidence submitted by the petitioner in response to the NOIR did not overcome the grounds for revocation. Specifically, the director found that the beneficiary worked for another employer without authorization and, therefore, the petitioner failed to establish that the beneficiary qualifies for the approved classification.

On February 25, 2010, the petitioner submitted a Form I-290B (Notice of Appeal) without a brief or evidence. Although the petitioner entered a check mark at the box at section 2 of the Form I-290B which indicates that the petitioner would send a brief and/or evidence within 30 days, the AAO has received neither.

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).

The only information about the basis of the appeal is the statement, at section 3 of the Form I-290B, which reads, verbatim:

Petitioner contends that the beneficiary's employment was continuous and ongoing without any interruption. Petitioner has submitted evidence to show that the beneficiary was claimed as an employee to the EDD without fail, and therefore, Petitioner is unaware of any violation of nonimmigrant status as alleged by the Service.

The Service relies on evidence it refers to as information received through an interview that the beneficiary provided, however no transcripts of such interview or recording has been provided. Petitioner is aware that the burden of proof is upon them and therefore additional time is required to request transcripts and/or recordings of such interview to properly defend, explain or clarify any statements that appear to have been misconstrued.

The petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As the petitioner does not present additional evidence 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 this proceeding 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 summarily dismissed.