

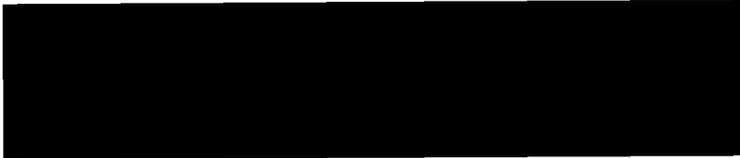
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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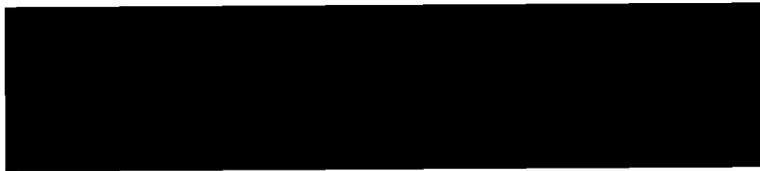
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAY 03 2010**

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 service center director denied the instant nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner stated on the Form I-129 visa petition that it is an "International Typesetting and Composition" company. In order to employ the beneficiary as an "International Marketing Analyst," the petitioner seeks 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the basis that the petitioner had failed to establish that the proffered position qualifies as a specialty occupation.

Counsel submitted a Form I-290B appeal in this matter. In the section reserved for the reason for filing the appeal, counsel inserted, "Please note that (due to the added delays caused by Tropical Storm Fay) the brief and/or additional evidence will be submitted to the AAO within 30 days." Counsel also checked Box B in Part 2 of Form I-290B to indicate that a brief or additional evidence, or both, would be submitted within 30 days. No brief or evidence was submitted to the AAO, either with the form appeal or subsequently.

Counsel's statement on appeal contains no specific assignment of error. Alleging, directly or indirectly, that the director erred in some unspecified way is an insufficient basis for an appeal. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, 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." Counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

The AAO notes that, in any event, a review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on April 29, 2009, a date subsequent to the denial of the instant petition, the petitioner submitted a new Form I-129 on the beneficiary's behalf. USCIS records further indicate that this second petition was approved, granting the beneficiary H-1B status from October 1, 2009 until September 29, 2012. Because the beneficiary in the instant petition has been approved for employment with the petitioner based upon the filing of another petition, further pursuit of the matter at hand would be moot if the appeal were not being summarily dismissed.

ORDER: The appeal is summarily dismissed.