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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
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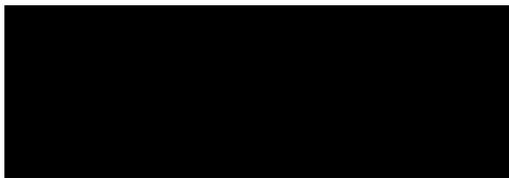


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 03 2010

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:

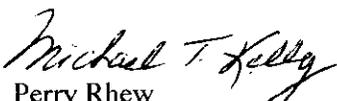


INSTRUCTIONS:

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,

for 
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the application to extend a period of stay in nonimmigrant status, and dismissed a subsequent motion to reconsider. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is an IT consulting and software development firm, and it petitioned the United States Citizenship and Immigration Services (USCIS) to classify the beneficiary as a nonimmigrant 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 petitioner seeks to extend the beneficiary's stay in order to continue to fill the position of programmer analyst. The director approved the H-1B classification but denied the beneficiary's extension of stay. The petitioner, through counsel, filed a Form I-290B in an attempt to appeal the decision of the director.

It is noted that 8 C.F.R. § 214.1(c)(5) states that there is no appeal from the denial of an application for extension of stay filed on Form I-129. Also, per the regulation at 8 C.F.R. § 103.5(a)(6), a USCIS decision rendered on a motion is appealable only if the original decision was appealable, which is not the case here. The petitioner's appeal must be rejected.

ORDER: The appeal is rejected.