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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



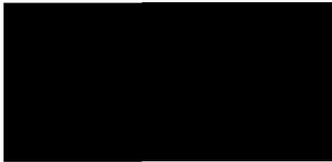
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Date: JUN 02 2011 FILE: [REDACTED] Office: VERMONT SERVICE CENTER

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 \$630. 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 Director, California Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a for-profit organization specializing in the breakdown and re-sale of diesel truck parts in export sales. It seeks to employ the beneficiary as an Export Specialist Sales. 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 director denied the petition, finding that the petitioner had failed to demonstrate that the proffered position was a specialty occupation.

Counsel for the petitioner submitted a timely Form I-290B on August 6, 2009 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is considered complete as currently constituted.

The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel provides only a brief statement on Form I-290B, which is set forth below:

Erroneous conclusion of law pertaining to Section 101(a)(15)(H)(i)(b) of the Act.

The service's determination that the proffered position did not qualify as a specialty occupation was in err.

The Occupational Outlook Handbook does clearly outline and describe the baccalaureate level of education in a specific specialty as normal.

Petitioner will be submitting Brief and Supporting evidence to be filed within 30 days pertaining to the rroneous [sic] conclusion of law as referenced above.

Counsel's brief statement, however, does not specifically identify any errors on the part of the director and is therefore insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Although counsel contends that the basis for the director's denial was erroneous, she does not address the director's four-part analysis of the regulatory criteria under 8 C.F.R. § 214.2(h)(4)(iii)(A). Moreover, the director quoted the Department of Labor's *Occupational Outlook Handbook (Handbook)* in detail when concluding that the proffered position did not normally require at least a baccalaureate level of education for entry into the position. Although counsel contends on Form I-290B that the *Handbook* "does clearly outline and describe the baccalaureate level of education in a specific specialty as normal," this statement is not supported by evidence or other independent documentation, and does not explain how the director's reliance on the *Handbook's* education and training section was erroneous.

Counsel did not specifically identify what part of the director's analysis was incorrect and the reason(s) why it was incorrect. Generally stating the director's conclusions without identifying any specific errors in the analysis is insufficient. In other words, counsel's general objections on the Form I-290B, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the conclusions the director reached based on the evidence or lack of evidence submitted by the petitioner.

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). Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel presents 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.