



U.S. Citizenship
and Immigration
Services



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FILE: [Redacted] Office: VERMONT SERVICE CENTER

Date: MAR 02 2011

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,

for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the instant nonimmigrant visa petition and the matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed as the matter is now moot.

In the Form I-129 visa petition, the petitioner described itself as an IT (information technology) consulting services and product development firm. To employ the beneficiary in what it designates as a systems analyst position, the petitioner endeavors to classify him 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 April 8, 2009 because he determined that the petitioner failed to demonstrate that the labor condition application submitted to support the visa petition is valid for employment in all of the locations where the beneficiary would work and failed to submit the itinerary required by 8 C.F.R. § 214.2(h)(2)(i)(B).

Counsel submitted a Form I-290B appeal in this matter. In the section reserved for the reason for filing the appeal, counsel inserted:

The petitioner, Innvador Solutions LLC, submits that USCIS erred in its discretion in denying the H-1B petition filed on behalf of the above named H-1B beneficiary The petitioner contends that the proposed position of Systems Analyst with the petitioner qualifies for classification as a "Specialty Occupation" under any of the criteria at 8 C.F.R. [§] 214.2(h)(4)(iii)(A) or that the beneficiary would be coming temporarily to the United States to perform the duties of a specialty occupation pursuant to 8 C.F.R. [§] 214.2(h)(1)(B)(1) as the petitioner has a bona fide job requirement in the Specialty occupation as he is actual employer. Further, petitioner believes that the evidence provided to support the project/Client details clearly mentions the job location, job duties and the duration. Petitioner, shall present its arguments along with new evidence in detail in separate written statement/brief filed with AAO within 30 days.

[Errors in the original.]

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 broad or 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. ¹

ORDER: The appeal is summarily dismissed.

¹ Further, a review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on August 17, 2009, a date subsequent to the denial of the instant visa petition, a third employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. That visa petition was approved on August 24, 2009, and granted the beneficiary H-1B status from August 31, 2009 to August 2, 2012. Yet further, on June 3, 2010, yet another employer filed a Form I-129 visa petition seeking nonimmigrant H-1B classification on the beneficiary's behalf. USCIS records further indicate that this other employer's petition was approved on November 9, 2010, which granted the beneficiary H-1B status from November 9, 2010 to May 25, 2013.

Even if counsel had stated a basis for the instant appeal, because the beneficiary of the instant petition has been approved for employment with other petitioners, and the matter at hand is moot, the appeal should still have been dismissed.