

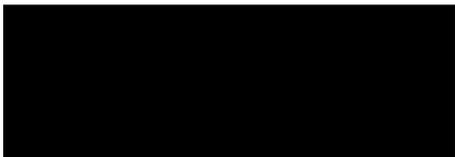
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



02

Date: NOV 22 2011 Office: VERMONT SERVICE CENTER FILE: [REDACTED]

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:

SELF-REPRESENTED

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, Vermont 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 petition will remain denied.

The petitioner states that it is engaged in wholesale trade, was established in 1996, and employs 20 personnel. It seeks to employ the beneficiary as a jeweler 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, determining that the petitioner failed to establish that the proposed position qualifies for classification as a specialty occupation and that the beneficiary was qualified to perform the duties of the proffered position.

On appeal, the petitioner submitted the beneficiary's diploma for studies performed in jewelry and explained that the diploma was not available when the petition was filed. The petitioner asserts on the Form I-290B, Notice of Appeal or Motion, that the diploma establishes the beneficiary is qualified to perform the duties of the proffered position. The petitioner does not address the director's determination that the proffered position as described failed to qualify as a specialty occupation.

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 record on appeal does not resolve the deficiencies noted by the director. The petitioner does not identify an erroneous conclusion of law or statement of fact in the director's denial and fails to present additional evidence or argument on appeal on the issue of specialty occupation. Thus, the record on appeal is insufficient to overcome the decision of the director and will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

Of note, the AAO does not need to examine the issue of the beneficiary's qualifications because the petitioner has not provided sufficient evidence to demonstrate that the position is a specialty occupation. In other words, the beneficiary's credentials to perform a particular job are relevant only when the job is found to be a specialty occupation. As discussed, the petitioner did not submit sufficient evidence regarding the proffered position to determine that it is a specialty occupation and, therefore, the issue of whether it will require a baccalaureate or higher degree, or its equivalent, in a specific specialty also cannot be determined. Therefore, the AAO need not and will not address the beneficiary's qualifications further, except to note that, in any event, the petitioner did not submit an evaluation of the beneficiary's foreign certificates or sufficient evidence to establish that she had obtained a degree equivalent to a U.S. bachelor's degree in a specific specialty. As such, since evidence was not presented that the beneficiary has at least a bachelor's degree or the equivalent in a specific specialty, the petition could not be approved even if eligibility for the benefit sought had been otherwise established.

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As the record on appeal is insufficient to overcome the decision of the director, the appeal will be summarily dismissed. 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. The petition remains denied.