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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

D2

Date:

OCT 06 2011

Office: CALIFORNIA 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, 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 software engineering and lab billing company that seeks to employ the beneficiary as a computer software engineer. 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 establish that the proffered position was a specialty occupation.

The petitioner filed a timely Form I-290B, Notice of Appeal or Motion, on December 27, 2010 which was accompanied by additional documentary evidence. No separate brief was submitted.

The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. The petitioner's statement on Form I-290B, however, does not specifically identify any errors on the part of the director and is therefore insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. Specifically, the petitioner states, in relevant part:

Dear [REDACTED]

We are writing to request an appeal of your decision to deny the I-129 Petition for [the beneficiary]. The main reason for the denial is I believe my lack of understanding of the specific documentation that USCIS requested to establish specialty occupation classification of [the beneficiary].

Attached you will find the documentation that we failed to provide earlier; in hopes that this will move you to reconsider a change in your prior decision of denial.

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). Although the petitioner submits documentary evidence on appeal, it fails to identify the nature of the documentation or provide an explanation as to what the documents represent and how they are intended to overcome the basis for the director's denial.¹ Regardless of their

¹ The documents submitted on appeal include an employment agreement between the petitioner and the beneficiary as well as a brochure providing an overview of the petitioner's business. It is noted that such documents were included in the director's detailed request for evidence issued on November 23, 2010. The petitioner, therefore, was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence and now submits it on appeal. Even if the petitioner had specifically identified an erroneous conclusion of law or fact on appeal and thus warranted a full review of the record by the AAO, the AAO would not consider

submission, the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition based on the evidence or record at the time the petition was adjudicated.

As the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition, 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.

this evidence for any purpose. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). Moreover, failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).