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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
and Immigration
Services

D2

[Redacted]

FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: FEB 03 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:

[Redacted]

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 service center director denied the instant nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On the Form I-129 visa petition, the petitioner stated that it is a software development and consulting firm. In order to employ the beneficiary in what it designates as a programmer analyst position, the petitioner seeks 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the basis that, because it had submitted no evidence from the end-user of the beneficiary's services pertinent to the duties the beneficiary would perform for it, the petitioner had failed to establish that the proffered position meets the definition of a specialty occupation. 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 . . . by and through the Undersigned Counsel [sic], submits that USCIS erred in denying the H-1B petition filed on behalf of the [beneficiary]. Petitioner submitted all the documents that corroborated the fact that the petitioner has an assignment for the beneficiary in the position offered at end client. Despite providing all the documentation pertaining to beneficiary's assignment [sic] in the position offered, Programmer Analyst, USCIS denied this H-1B petition stating that petitioner failed to provide end client letter for the purposes of beneficiary's job duties at the end client. Petitioner, shall present its arguments along with new evidence in detail in a separate writing statement/brief filed with AAO within 30days [sic].

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 to the AAO within 30 days. No brief or evidence was submitted to the AAO, either with the Form I-290B or subsequently and, as such, the record of proceeding shall be considered complete as currently constituted.

Counsel's statement on appeal does not address the basis of the director's decision of denial, i.e., that the proffered position does not qualify as a specialty occupation, and contains no specific assignment of error. Alleging, directly or indirectly, that the director erred in some broad, unspecified, or immaterial 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.

ORDER: The appeal is summarily dismissed.