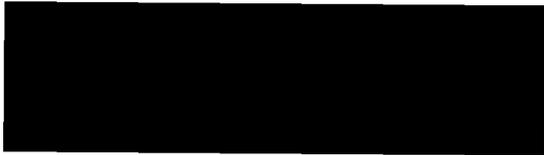




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY



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Date: **APR 05 2012**

Office: CALIFORNIA SERVICE CENTER

FILE



IN RE:

Petitioner:

Beneficiary:



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:

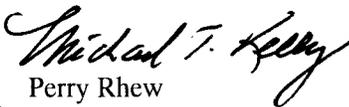


INSTRUCTIONS:

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, filed on September 23, 2009, the petitioner described itself as a software consulting and development firm. To employ the beneficiary in what it designates as a software consultant, 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 March 15, 2010 because she determined that the petitioner failed to demonstrate (1) that it has standing to file the instant visa petition as the beneficiary's prospective United States employer as that term is defined at 8 C.F.R. § 214.2(h)(4)(ii) or as an agent within the meaning of 8 C.F.R. § 214.2(h)(2)(i)(F), and (2) failed to demonstrate that it would employ the beneficiary in a specialty occupation position.

On appeal, counsel contended that the director's decision to deny the petition does not accord with the evidence of record and, therefore, should be overturned. Counsel also submitted additional evidence.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on February 10, 2010, a date subsequent to the filing of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records indicate that this other employer's petition was approved on April 12, 2010.

USCIS records also indicate that, on March 30, 2011, a date subsequent to the denial of the instant visa petition, yet another employer filed a Form I-129 petition seeking H-1B classification on behalf of the beneficiary. USCIS records further indicate that this third employer's petition was approved on June 8, 2011.

Because the beneficiary in the instant petition has been approved for H-1B employment by other petitioners, further pursuit of the matter at hand is moot.

ORDER: The appeal is dismissed. The petition is denied.