

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

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: **APR 09 2012** Office: VERMONT 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 Michael T. Kelly
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the approval of the visa petition, and, after granting a subsequent motion, affirmed the earlier decision to deny the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the matter is now moot.

On the Petition for Nonimmigrant Worker (Form I-129), the petitioner describes itself as an enterprise engaged in marine transportation surveying and engineering and states that it seeks to employ the beneficiary as a marine cargo surveyor. 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition, finding that the petitioner failed to establish that the beneficiary was eligible for an extension of status at the time the Form I-129 was filed in accordance with the controlling statutory and regulatory provisions. Thereafter, the petitioner submitted a motion to reopen and reconsider. The director reviewed the motion but found that the petitioner did not overcome the grounds for denial of the petition. Accordingly, the director affirmed the initial decision to deny the petition. On appeal, counsel asserts that the director's basis for denial was erroneous and contends that the petitioner satisfied all evidentiary requirements.

U.S. Citizenship and Immigration Services records indicate that this beneficiary is also the beneficiary of an approved immigrant petition and has been granted permanent residence as of October 7, 2010. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issue in this proceeding is moot. Therefore, this appeal is dismissed.

ORDER: The appeal is dismissed as moot.