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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

[Redacted]

DJ

Date: **MAY 03 2012** Office: VERMONT SERVICE CENTER

[Redacted]

IN RE: [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,

for Michael T. Kelly
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 May 5, 2010, the petitioner described itself as a software development services firm. To employ the beneficiary in what it designates as a programmer analyst position, 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 July 15, 2010 because he determined that the petitioner failed to demonstrate that it has standing to file the 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).

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.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that other employers filed visa petitions for the beneficiary on dates subsequent to the denial of the instant visa petition.

On August 31, 2010, an employer filed a visa petition seeking H-1B classification for the beneficiary. That visa petition was approved on September 13, 2010. On August 9, 2011, that same employer filed a visa petition seeking H-1B classification for the beneficiary, which visa petition was approved on August 26, 2011. On December 5, 2011, another employer filed a visa petition seeking H-1B classification for the beneficiary. That visa petition was approved on December 9, 2011. Because the beneficiary in the instant petition has been approved for H-1B employment with other petitioners, further pursuit of the matter at hand is moot.

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