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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**



02

Date: **MAY 08 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,

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 consulting, internet, and database consulting firm. In order to employ the beneficiary in what it designates as a "Lead Developer (Computer Programmer)" 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, finding that the petitioner had failed to establish that the beneficiary is qualified to perform services in a specialty occupation. On July 30, 2010, counsel submitted a Form I-290B (Notice of Appeal or Motion), without a brief or evidence. The only comment that counsel submitted about the appeal is the following statement at Part 3 of the Form I-290B:

The decision incorrectly concludes that the beneficiary does not possess the equivalent of a U.S. bachelor's of science degree. It is respectfully submitted that this decision is in error as the educational evaluations provided conclude that beneficiary's credentials as the equivalent of a baccalaureate degree obtained from a U.S. accredited institution of higher education. The position is a specialty occupation and the beneficiary is fully qualified, as he has the equivalent of a bachelor's degree in the relevant field as evidenced by independent credible evidence. Please refer to the evaluations and evidence submitted with the Request for Evidence response and initial visa petition submission.

The decision of denial explained in detail why the evaluations provided are not competent evidence that the beneficiary has the equivalent of a bachelor's degree. In short, both of the evaluations provided assert that the beneficiary's education and employment experience, taken together, are equivalent to a U.S. bachelor's degree in computer information systems, the specialty allegedly required to perform the duties of the proffered position. If an evaluation will rely on a beneficiary's employment experience, even in part, in showing that the beneficiary has the equivalent of a U.S. bachelor's degree in the required specialty, it must be accompanied by evidence that the evaluator has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience. See generally, 8 C.F.R. §§ 214.2(h)(4)(iii)(C) and (D), and, more specifically, 8 C.F.R. § 214.2(h)(4)(iii)(D)(1).

Counsel's statement on appeal cites the two evaluations provided as evidence that the beneficiary is qualified to work in a specialty occupation position, but without addressing the finding of the director that, pursuant to the salient regulation, they are not competent evidence of that assertion. Counsel failed, therefore, to overcome, or even address, the well-founded basis of the decision of the director.

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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.”

The petitioner’s counsel failed to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is summarily dismissed.