



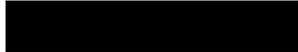
U.S. Citizenship
and Immigration
Services



D2

Date: **MAY 09 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: SELF-REPRESENTED

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 Director, California Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner describes itself as an information technology solutions and consulting services firm and it seeks to employ the beneficiary as a programmer analyst. 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 (the 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: (1) the proffered position was a specialty occupation; (2) it was a qualifying U.S. employer or agent; or (3) the Labor Condition Application (LCA) submitted corresponded to the petition.

The petitioner submitted a timely Form I-290B on February 8, 2010. In Part 3 of Form I-290B, entitled "Basis for the Appeal or Motion," the petitioner stated "As per the support letter attached." The record also includes a two-page letter from the petitioner dated February 4, 2010 as well as additional documentary evidence.

The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the eight-page denial. The petitioner's statement on Form I-290B, along with its letter dated February 4, 2010, does not specifically identify any errors on the part of the director and is therefore insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. The letter dated February 4, 2010 simply lists the reasons for the director's denial, and under each heading the petitioner provides either the procedural history of the petition or identifies documents it includes on appeal. The petitioner does not identify any erroneous conclusion of law or statement of fact for the appeal. Moreover, although the petitioner identifies three reasons for the denial in its letter, it fails to identify or make reference to the director's first basis for denying the petition (i.e., the petitioner's failure to establish that the proffered position was a specialty occupation). Lastly, the petitioner refers to an amended petition that it filed subsequent to this petition to reflect changes to and/or evidentiary deficiencies in this record of proceeding, neither of which are bases for an appeal.

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. 8 C.F.R. § 103.3(a)(1)(v). The petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. As the petitioner fails to submit 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).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.