



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **JUL 15 2013** OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [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)

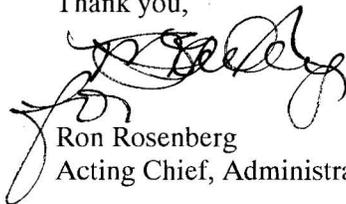
ON BEHALF OF PETITIONER IN THE FORM I-129 PROCEEDING:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the California Service Center on August 22, 2012. On the Form I-129 visa petition, the petitioner describes itself as an IT consulting and software development business established in 2002. In order to employ the beneficiary in what it designates as a systems analyst position, the petitioner seeks to classify her 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 December 20, 2012, finding that (1) the petitioner failed to establish that it will be a "United States employer" having an "employer-employee relationship" with the beneficiary in accordance with the applicable statutory and regulatory provisions, and (2) the petitioner failed to establish that the proffered position qualifies as a specialty occupation.

On January 22, 2013, the petitioner's counsel in the Form I-129 proceeding submitted a Notice of Appeal or Motion (Form I-290B) and checked Box A in Part 2 of the form to indicate that the petitioner was filing an appeal and that a brief and/or additional evidence was attached. The AAO fully and in-detail reviewed the Form I-290B and the petitioner's written statement in support of the appeal. In the box on the Form I-290B at Part 3, counsel states that the "[p]etitioner has a valid bona-fide job opportunity for the beneficiary," and refers the AAO to the "attached letter and supporting documentation for details." In a letter submitted in support of the appeal, the petitioner provides an explanation regarding the beneficiary's intended worksite and "apologize[s] for any confusion." The petitioner also provides additional information regarding discrepancies in the file and indicates that it has attached additional evidence. The petitioner concludes that it "believe[s] these documents, along with the other submitted information, clearly provide information regarding the terms and conditions of the assignment." The petitioner did not identify any errors in the director's decision.

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." In the instant case, the petitioner has failed to identify an erroneous conclusion of law or a statement of fact by the director as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.