



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **OCT 09 2014** OFFICE: VERMONT 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:
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner submitted a Form I-129 (Petition for a Nonimmigrant Worker) to the Vermont Service Center on May 7, 2014. In the Form I-129 visa petition, the petitioner describes itself as an information technology company established in 1993. In order to continuously employ the beneficiary in what it designates as a software engineer position, the petitioner seeks 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).

On May 20, 2014, the director denied the petition, finding that the petitioner failed to establish that the beneficiary is eligible for an extension of stay. On June 20, 2014, counsel for the petitioner submitted Form I-290B (Notice of Appeal or Motion). On the Form I-290B, Part 3, counsel checked Box 1b, indicating that a brief and/or additional evidence would be submitted within thirty days. However, we did not receive a brief and/or additional evidence within the allotted timeframe (or thereafter). Accordingly, the record of proceeding is deemed complete as currently constituted.

With the Form I-290B, counsel submitted a letter which states the following, in part:

Please find attached Appeal (Form I-290B) an appeal[sic] and we do humbly submit that my brief will be submitted to the AAO within 30 calendar days of filing the appeal.

We find that the petitioner and counsel did not identify specifically how the director made any erroneous conclusion of law or statement of fact in denying the petition. 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." Therefore, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.