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

(b)(6)

DATE: JAN 22 2015 OFFICE: VERMONT 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 IN THE FORM I-129 PROCEEDING:

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 service center director denied the instant nonimmigrant visa petition. The director reopened the matter pursuant to a motion, and then denied the visa petition again, affirming the previous decision. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed as the matter is now moot.

On the Form I-129 visa petition, the petitioner describes itself as a 42-employee "Technology Consulting Services Firm" established in In order to employ the beneficiary in what it designates as a ".Net Developer" 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).

The director denied the petition on October 2, 2013 because she determined that the petitioner failed to demonstrate that it qualifies as the beneficiary's prospective U.S. employer pursuant to the definition at 8 C.F.R. § 214.2(h)(4)(ii). After reopening the matter, the director again denied the visa petition and reaffirmed the previous decision on the same basis on February 20, 2014.

On appeal, counsel contends 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 on March 11, 2014, subsequent to the denial of the instant petition, you filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other petition was approved on April 16, 2014. Because the beneficiary in the instant petition has been approved for H-1B employment pursuant to another petition, further pursuit of the matter at hand is moot.

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