

(b)(6)



U.S. Citizenship  
and Immigration  
Services

DATE: MAR 20 2015 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 Vermont service center director denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the Vermont Service Center on October 9, 2013. On the Form I-129 visa petition, the petitioner describes himself as a restaurant with 58 employees, established in [REDACTED]. In order to employ the beneficiary in what it designates as a head chef 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

On June 23, 2014, the director denied the petition, concluding that the petitioner did not establish that: (1) the beneficiary maintained a valid H-1B nonimmigrant status at the time of filing the instant petition; (2) the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions; and (3) the beneficiary is qualified for a specialty occupation.

On July 25, 2014, the petitioner submitted the Form I-290B (Notice of Appeal or Motion). On the Form I-290B, Part 3, the petitioner checked Box 1b, to indicate that a brief and/or additional evidence will be submitted within 30 calendar days of filing the appeal. However, we never received the brief and/or additional evidence in support of the appeal. Thus, the record is complete as currently constituted.

With the Form I-290B, the petitioner submitted a letter dated July 22, 2014, which states the following, in part:

Please accept this G-28 and I-290B on behalf of [the petitioner] and its beneficiary, [name]. The brief and/or additional evidence will be submitted to the AAO within 30 calendar days of filing this appeal.

We find that the petitioner 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.