



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF D-J-, INC.

DATE: APR. 29, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a software consulting company, seeks to temporarily employ the Beneficiary as a "senior software engineer" under the H-1B nonimmigrant classification for specialty occupations. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(H)(i)(b), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The H-1B program allows a U.S. employer to temporarily employ a qualified foreign worker in a position that requires both (a) the theoretical and practical application of a body of highly specialized knowledge and (b) the attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum prerequisite for entry into the position.

The Director, Vermont Service Center, denied the petition. The Director concluded that the evidence of record did not establish that the Petitioner would engage the Beneficiary in an employer-employee relationship as a United States employer. 8 C.F.R. § 214.2(h)(2)(i)(A).

The matter is now before us on appeal. The appeal will be summarily dismissed.

The Petitioner submitted a Form I-290B, Notice of Appeal or Motion. Although the Petitioner marked Box 1(b) in Part 3 of the Form I-290B to indicate that a brief and/or additional evidence would be submitted within 30 days, we have not received a brief and/or additional evidence as of the date of this notice. Accordingly, the record will be considered complete as presently constituted.

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."

The Petitioner has not specifically identified any erroneous conclusion of law or statement of fact as a basis for the appeal. As noted, the Petitioner did not provide a brief or additional evidence in support of the appeal. Moreover, the Petitioner did not provide with its appeal a separate statement regarding the basis of the appeal, as instructed at Part 4 of the Form I-290B. Here, the Petitioner has made no reference or objection to the specific findings set forth in the Director's decision. Therefore, consistent with 8 C.F.R. § 103.3(a)(1)(v), the appeal will be summarily dismissed.

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

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(BIA 2013). Inasmuch as the Petitioner has not specifically identified an erroneous conclusion of law or a statement of fact in this proceeding, the Petitioner has not sustained that burden.

**ORDER:** The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of D-J-, Inc.*, ID# 18029 (AAO Apr. 29, 2016)