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U.S. Citizenship
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FILE: WAC 06 022 50169 Office: CALIFORNIA SERVICE CENTER Date: **SEP 28 2006**

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner operates a grocery store. It desires to employ the beneficiary as a grocery captain for an indefinite period. The director determined that the petitioner had not submitted a temporary labor certification from the Department of Labor (DOL) or notice stating that such certification could not be made prior to the filing date of the petition and denied the petition.

On appeal, the petitioner states that he went out of the state on vacation and business. The petitioner also states that he found this letter¹ and that he is the president of the store located at 99 Ranch Market.

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. 8 C.F.R. § 103.3(a)(1)(v).

On the Notice of Appeal to the Administrative Appeals Unit (Form I-290B), the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition.

The appeal is accompanied by a letter from the petitioner stating how long the beneficiary has worked for the petitioner, his position, job duties and annual salary. The petitioner did not present any additional evidence on appeal to overcome the decision of the director. The appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

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

¹ The petitioner is referring to the denial notice dated April 12, 2006.