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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: WAC 09 013 51281 Office: CALIFORNIA SERVICE CENTER Date: **JAN 14 2010**

IN RE: Petitioner: 
Beneficiary:

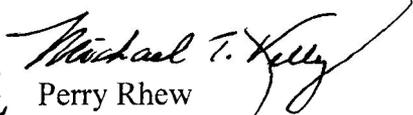
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(iii)

ON BEHALF OF PETITIONER:


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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner is a dental laboratory and seeks to employ the beneficiary as a trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(H)(iii) for the period from January 2, 2009 until January 1, 2011.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner submitted the Form I-290B on March 20, 2009. Counsel for the petitioner marked the box at Part 2 of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days. The appeal brief was never received by the AAO. Thus, the AAO deems the record complete as currently constituted.

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).

The only new document submitted on appeal is the Form I-290B submitted by counsel for the petitioner, which states the following:

The decision is contrary to the applicable law and evidence. The decision is without basis in fact for the reasons which will be set forth in the brief and declarations to be filed within the 30 day time period allowed. The decision of the District Director ignores the evidence of the lack of training or expertise of the beneficiary in the field of dental implants. The decision of the Director to disregard the evidence submitted is contrary to controlling decisions as will be set forth in the brief to be filed within the allotted time period.

Counsel fails to identify specifically how the four independent grounds of the director's decision are based upon an erroneous conclusion of law or statement of fact. As neither the petitioner nor counsel presents 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).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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