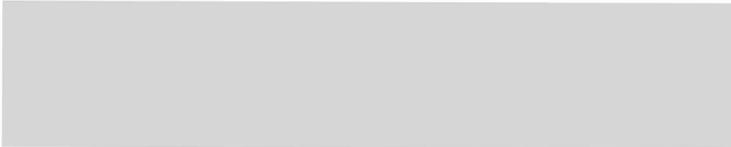




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUL 08 2015**

PETITION RECEIPT #: 

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:


Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied this petition. The Director granted the petitioner's subsequent combined motion to reopen the proceeding and to reconsider the decision to deny the petition. However, upon consideration of the motion, the Director affirmed her earlier decision. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

On the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as a restaurant that was established in [REDACTED]. In order to employ the beneficiary in what it designates as a "Trainee" position for the 12-month period from September 1, 2014 to August 31, 2015, the petitioner seeks to classify him as a nonimmigrant trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(iii).

The Director denied the petition on each of two independent grounds. The Director concluded that the petition did not meet H-3 Trainee eligibility requirements because the evidence of record indicated that the community-college component of the proposed training could not be approved in light of the provision at 8 C.F.R. § 214.2(h)(1)(ii)(E)(I) excluding from H-3 classification any trainees coming to the United States to receive "training provided primarily at or by an academic or vocational institution." The Director's second ground for denying the petition was her conclusion that the evidence of record did not establish that the proposed training was unavailable in the beneficiary's own country (a condition for approval specified at 8 C.F.R. § 214.2(h)(7)(ii)(A)(I)).

The petitioner submitted a Notice of Appeal or Motion (Form I-290B) on which Box b in Part 3 was checked, indicating that the petitioner was filing an appeal and would send a brief and/or additional evidence within 30 days. The Form I-290B was filed on December 11, 2014. To date, we have received neither a brief nor additional evidence from the petitioner. Accordingly, the record of proceeding is deemed complete as currently constituted.

The petitioner's only comment about the appeal is the following statement in the letter which accompanied the Form I-290B:

As per the [Form I-290B], we will submit additional documentation within 30 calendar days of filing the appeal.

The appeal, therefore, does not identify any specific assignment of error.

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." In the instant case, the petitioner did not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. Therefore, the appeal must 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 (BIA 2013). Here, that burden has not been met.

(b)(6)



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NON-PRECEDENT DECISION

ORDER: The appeal is summarily dismissed.