

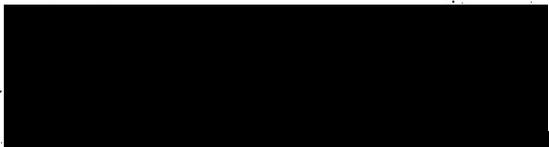


U.S. Department of Justice

Immigration and Naturalization Service

D2

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

OCT 23 2000

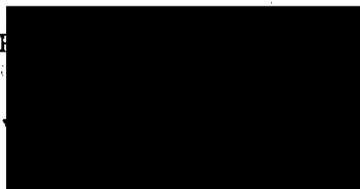
File: EAC 99 091 52140 Office: Vermont Service Center Date:

IN RE: Petitioner:
Beneficiary:



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)

IN BEHALF OF PETITIONER



Identifying data removed to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the director and is now before the Associate Commissioner, Examinations, on appeal. The appeal will be dismissed.

The petitioner is software consultancy firm employing one person. It seeks to employ the beneficiary as a programmer analyst for a period of two years and eleven months. The director determined that the petitioner had not submitted sufficient evidence to clearly establish the firm is a viable business capable of offering the beneficiary a qualifying specialty occupation position.

On appeal, counsel submits a copy of a lease for office premises. Counsel argues that the offered position is a specialty occupation and the beneficiary is qualified to perform the duties of a specialty occupation.

The record shows that the director requested the petitioner to submit a copy of the firm's business lease and copies of consulting contracts to indicate that there is a need for the services of the beneficiary. This was a reasonable request bearing directly on the issue of the validity of the petition. In response, the petitioner has submitted a copy of a business lease for premises at [REDACTED] an address which is different than the business address listed on the visa petition. Also, the submitted lease expired on September 30, 1997, prior to June 2, 1999, the date the petition was filed. As the petitioner has not provided the information requested and required for the adjudication of this petition, it may not be approved.

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.