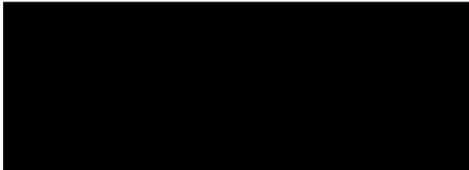




U.S. Department of Justice

Immigration and Naturalization Service

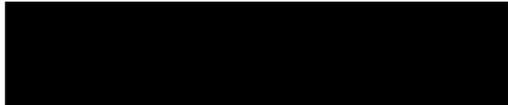
OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



JAN 11 2000

File: EAC 99 081 52010 Office: Vermont Service Center Date:

IN RE: Petitioner:
Beneficiary:

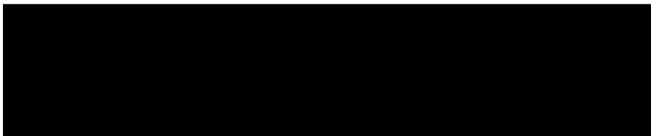


Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

Public Copy

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

IN BEHALF OF PETITIONER:



INSTRUCTIONS:

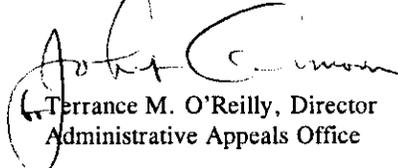
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

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: Approval of the nonimmigrant visa petition was revoked by the director after appropriate notice. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a software development and computer consulting firm which seeks to employ the beneficiary as a programmer analyst for a period of 30 months. The director revoked approval of the petition upon receipt of information from the petitioner that the beneficiary had left the company or failed to report for employment.

On appeal, counsel asks that the beneficiary be permitted to begin employment in November 1999.

Pursuant to 8 C.F.R. 214.2(h)(9)(i)(B), a petition filed pursuant to section 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H), may not be filed or approved earlier than six months before the date of actual need for the beneficiary's services or training. The petition was filed January 21, 1999 and the petitioner stated that the beneficiary's services are needed in November 1999. The petition was filed more than six months prior to the date of actual need for the beneficiary's services. Accordingly the petition may not be approved.

ORDER: The appeal is dismissed.