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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, DC 20536

[redacted]

FILE: SRC 03 048 52226 Office: Texas Service Center Date: NOV 06 2003

IN RE: Petitioner: [redacted]
Beneficiaries

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 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 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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, Texas Service Center, who certified her decision to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed, although the approval is now moot.

The petitioner engages in the business of landscaping services. It seeks to employ the beneficiaries as laborers for three and one-half months. The Department of Labor determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that sufficient countervailing evidence had been submitted to show that qualified persons in the United States are not available, that the employment policies of the Department of Labor have been observed, and that the need for the services to be performed is seasonal and temporary.

After review of the evidence contained in the record, the decision of the director is found to be correct.

The regulation at 8 C.F.R. § 214.2(h)(9)(ii)(B) states that, if a petition is approved after the date the petitioner indicates that the service will begin, the approved petition and approval notice should show a validity period commencing with the date of approval and ending with the date requested by the petitioner.

The petition should have been approved for the requested time period. This decision will have no practical effect because the period of requested employment has passed.

ORDER: The director's decision is affirmed; however, the matter is moot due to the passage of time.