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U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

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

[redacted]

File: LIN 01 167 53390 Office: NEBRASKA SERVICE CENTER Date: JAN 30 2003

IN RE: Petitioner:
Beneficiary: [redacted]

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

IN BEHALF OF PETITIONER: [redacted]

identifying data deleted 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 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 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is described as an child placement agency. It seeks authorization to employ the beneficiary temporarily in the United States in a capacity involving specialized knowledge, as its international adoption facilitator. The director determined that the petitioner had not established that the beneficiary has been or will be employed in a capacity involving specialized knowledge.

On appeal, counsel asserts that the beneficiary qualifies as an individual possessing specialized knowledge and submits a brief in support of that claim.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

8 C.F.R. 214.2(l)(3) states that an individual petition filed on Form I-129 shall be accompanied by:

> (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
>
> (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

The United States petitioner was established in 1985 and states that it is the parent of Families for Children, located in Almaty, Kazakhstan. The petitioner seeks to employ the beneficiary for three years at an annual salary of $18,000.

At issue in this proceeding is whether the petitioner has established that the beneficiary has been and will be employed in a capacity that involves specialized knowledge.

Section 214(c)(2)(B) of the Act, 8 U.S.C. 1184(c)(2)(B), provides:

> An alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

8 C.F.R. 214.2(l)(1)(ii)(D) states:

> *Specialized Knowledge* means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

The petition makes the following statement regarding the beneficiary's proposed duties in the United States:

> In the U.S. she will also work as an Adoption Facilitator. She will educate families here in the United States on the cultural differences they will be experiencing during their adoption. She will also work with the olderadopted [sic] children in the United States having a difficult time adjusting to the culture here.

In a supporting statement the petitioner provided the following description of the beneficiary's past duties and qualifications:

> . . . [redacted] graduated from Kazak State University of International Relations and World Languages, in Almaty, Kazakhstan with a degree in English. She is a valuable employee. She has been working for Families For Children since October 1999 as a translator for families that adopted from the country of Kazakhstan. . . . Her job description in Kazakhstan entailed spending weeks at a time in different cities in Kazakhstan translating for adoptive families and their adopted children. Families that adopted older children used her services to help the child adjust to the English language.

On May 16, 2001, the Service sent the petitioner a notice requesting, in part, that additional evidence be submitted to establish that the beneficiary's knowledge is uncommon, noteworthy, or distinguished from other's in the same field of work.

In response to the above, counsel submitted a letter from the petitioner, listing the beneficiary's attributes that are required to carry out the job duties in the United States:

> [redacted] been translating adoption dossiers . . . since October '99.
>
> * * *
>
> [redacted] has played a vital role in making this adjustment process a positive one for our older orphanage children and adoptive families. . . . On July 10th, Lola escorted four Kazakhstan children to their new families within the United States.
>
> She also helped two families in Utah that chose not to adopt . . . . She spent several hours a day, on the phone or in person, talking and participating with the children and their parents helping with each situation. Lola has been trained through her experience in working in orphanages to deal with the special needs these Kazakh orphans have . . . . She has unique, specialized knowledge, understanding and capability bonding children to their new families.

The director concluded that the petitioner failed to establish that the beneficiary possesses knowledge that is distinct from others in her field and denied the petition.

On appeal, counsel submits a brief arguing that the director's decision was "erroneous, arbitrary and an abuse of discretion." He asserts that the beneficiary's job to "educate families on the cultural differences they will be experiencing during the adoption process" is one which requires specialized knowledge. He further claims that the beneficiary's education, language skills and experience in the Families for Children adoption process constitute that specialized knowledge.

On review, the record is not persuasive that the beneficiary has been or will be employed in a capacity involving special knowledge or that the beneficiary possesses specialized knowledge. The beneficiary has used her language skills and her knowledge of the culture in Kazakhstan to facilitate overseas adoption. While the beneficiary's skills make her a tremendous asset to the petitioner's organization, the fact remains that the plain meaning of the term "specialized knowledge" is knowledge or expertise *beyond the ordinary* in a particular field, process, or function. (Emphasis added.) The recurring theme of the beneficiary's job description is her language skills and her experience with the adoption process with a particular organization. These skills are not so unique as to warrant a conclusion that others in the field of adoption facilitation do not possess them. The petitioner has not furnished evidence sufficient to demonstrate that the beneficiary's duties involve knowledge or expertise beyond what is commonly held in her field. Contrary to counsel's argument, mere

familiarity with an organization's product or service, such as knowledge of the adoption process in the instant case, does not constitute special knowledge under section 214(c)(2)(B) of the Act. The record as presently constituted is not persuasive in demonstrating that the beneficiary has specialized knowledge or that she has been and will be employed primarily in a specialized knowledge capacity. For this reason, the petition may not be approved.

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 dismissed.