



BH

U.S. Department of Justice

Immigration and Naturalization Service

Processing data covered to  
prevent identity information  
invasion of personal privacy

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



File: [Redacted] Office: NEBRASKA SERVICE CENTER

Date: JUL 11 2002

IN RE: Petitioner:  
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(C)

IN BEHALF OF PETITIONER:



Public Copy

**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

Robert P. Wiemann, Director  
Administrative Appeals Office

6

**DISCUSSION:** The employment-based 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 summarily dismissed.

The petitioner is engaged in supplying concrete. It seeks classification of the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(C), as a multinational executive or manager. The director determined that the petitioner had not established a qualifying relationship with a foreign organization abroad.

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.

On the Form I-290B Notice of Appeal, filed on February 15, 2001, counsel indicated that a brief and/or evidence would be forthcoming within 30 days. To date, more than a year later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The Notice of Appeal form states:

The underlying I-140, EB-1 petition to classify the Beneficiary under INA section 203(b)(1)(C) should be granted because evidence in the record clearly established that the Beneficiary meets all of the statutory requirements for this immigrant visa category.

Specifically, the Nebraska Service Center erred in concluding that the Petitioner failed to establish the existence of a qualifying relationship between the foreign entity [REDACTED] Ltd. and the U.S. subsidiary, [REDACTED] /MVP Construction Inc. Both evidence already in the record as well as additional evidence to be submitted within the next 30 days, will clearly establish the existence of a qualifying relationship between the foreign entity and US subsidiary and the fact that the foreign entity has full control and veto power over the US subsidiary.

Counsel does not specify what facts in the record were overlooked or misunderstood by the director. Counsel's assertion that the facts in the record clearly establish a qualifying relationship between the petitioner and a foreign organization is without

merit. The assertions of counsel do not constitute evidence. Matter of Obaigbena, 19 I&N Dec.533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 BIA 1980).

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

**ORDER:** The appeal is summarily dismissed.