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U.S. Department of Justice

Immigration and Naturalization Service

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



File: EAC 00 004 50048

Office: VERMONT SERVICE CENTER

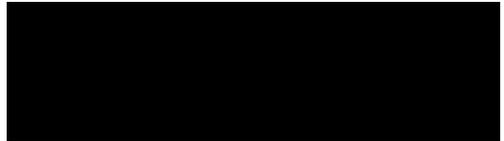
Date: 12 SEP 2002

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

DISCUSSION: The employment-based visa petition was denied by the Director, Vermont 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 marketing leather products manufactured by its purported affiliated company in Pakistan. 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 that the beneficiary had been or would be employed in a managerial or executive capacity.

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 April 10, 2001, counsel indicated that a brief and/or evidence would be submitted within 30 days. To date, more than one-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 statement on the appeal form in pertinent part reads simply:

The record indicates that the petitioner's net profit for 1999 exceeded \$75,000 which was paid to the beneficiary as salary. Furthermore, salary alone is not the final arbiter as to whether an individual is performing executive or managerial duties. The Service has granted the beneficiary L1A status and renewed that status. The decision by the Service on this case is arbitrary, against the weight of the facts and is based solely on the fact that the petitioner is a small company. Numerous precedent decisions have established that such is not the proper basis for rendering such a decision.

Counsel re-states facts on the Form I-290B Notice of Appeal, such as the petitioner's net profit and that the Service has previously granted the beneficiary L1-A status. Counsel also notes that salary is not the only indication of whether an individual is performing managerial or executive decisions. Counsel then concludes that the Service decision is against the weight of the facts and alleges that the decision is based solely on the size of the company. Counsel states that numerous precedent decisions indicate that this is not a proper basis for rendering a decision but does not cite any particular analogous case that supports his

conclusion.

Counsel does not identify any particular fact that was not properly considered by the director in making his decision. Counsel's allegation that the director based his decision solely on the basis of the size of the company is not supported in the record and counsel provides no facts to support this allegation.

Inasmuch as counsel does not 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.