

U.S. Department of Homeland Security

Citizenship and Immigration Services

BY

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

PUBLIC COPY



OCT 30 2003

File:

Office: TEXAS SERVICE CENTER

Date:

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)

ON BEHALF OF PETITIONER:



**Identifying data deleted to
prevent unwarranted
invasion of personal privacy**

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner claims to be a Florida corporation organized in July 1999. It is engaged in installing and maintaining pool filtration systems. It seeks to employ the beneficiary as its president and managing director. Accordingly, it endeavors to classify 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.

The regulation at 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.

The petitioner submitted a Notice of Appeal, Form I-290B that was received by CIS on December 18, 2002. Counsel requests an additional 60 days to submit a brief and or other evidence to the AAO. To date, more than nine months later, the AAO has not received a brief or other evidence in support of the petitioner's appeal. The I-290B states:

We believe that the information provided was sufficient for granting an I-140. Additionally, we submitted numerous documents supporting [the beneficiary's] executive/manager position of the U.S. entity. Therefore, we believe the beneficiary's duties classify as a[n] executive/manager per Section 203 (b)(1)(C) of the Immigration and Nationality Act.

Inasmuch as the petitioner 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.

In addition, the AAO notes that the petitioner has filed two previous non-immigrant petitions on behalf of this beneficiary. One such petition was denied by the director and affirmed by the AAO on appeal. A second petition was denied as abandoned for failure to respond to the director's request for evidence. Please note that the filing by an attorney of an appeal that is summarily dismissed under this section may constitute frivolous behavior as defined in 8 C.F.R. § 292.3(a)(15).



ORDER: The appeal is summarily dismissed.