



U.S. Citizenship  
and Immigration  
Services

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

B4

[Redacted]

FILE: [Redacted]  
SRC 03 026 50612

Office: TEXAS SERVICE CENTER Date: DEC 21 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

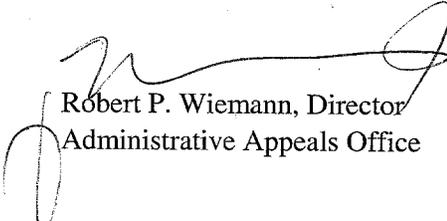
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to  
Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

[Redacted]

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office 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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based petition. The petitioner subsequently filed an appeal with the Administrative Appeals Office (AAO), which the AAO dismissed. The matter is again before the AAO on a motion to reopen or reconsider. The motion will be dismissed. The previous decisions of the director and AAO will be affirmed.

The petitioner filed the instant immigrant petition to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C). The petitioner is a limited liability company that is organized under the laws of the State of Texas that is engaged in the export of oil and gas supplies, automotive products and furniture. The petitioner seeks to employ the beneficiary as its president and chief executive officer.

The director denied the petition concluding that the petitioner had failed to demonstrate that the beneficiary had been employed abroad and would be employed in the United States entity in a primarily managerial or executive capacity. In a decision dated January 11, 2005, the AAO affirmed the director's decision and dismissed the appeal.

On May 16, 2005, counsel for the petitioner submitted Form I-290B, listing the above-referenced A-number, contending that Citizenship and Immigration Services (CIS) erred in determining that the beneficiary has not and would not be employed in a primarily managerial or executive capacity. Counsel indicated that a brief and additional evidence would be submitted within thirty days of the appeal. The AAO notes that on Form I-290B, counsel referenced an unrelated petitioner and subsequently submitted an appellate brief describing the employment of another beneficiary in the unrelated petitioning entity.

On December 7, 2005, the AAO sent to counsel via facsimile a letter explaining the discrepancies in the documentary evidence submitted on appeal. The AAO noted ambiguity in whether counsel intended to submit a motion in response to the AAO's January 11, 2005 decision, and requested clarification within five business days of the AAO's notice. As of this date, counsel has not responded to the AAO's notification. Accordingly, the record will be considered complete.

The regulation at § 103.5(a)(2) provides that "[a] motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence."

The regulation at § 103.5(a)(3) states:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or [CIS] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

Counsel did not submit a statement of new facts or identify precedent decisions as a basis for a motion to reopen or reconsider. Additionally, counsel has not demonstrated that the AAO's decision was based on an incorrect application of law or CIS policy. Accordingly, the motion will be dismissed.

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. Accordingly, the decisions of the director and AAO will be affirmed and the petition will be denied.

**ORDER:** The petition is denied.