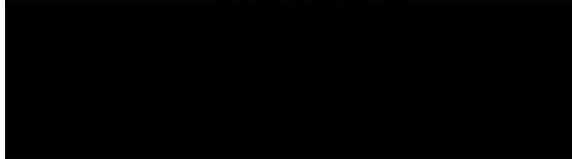




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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FILE: [Redacted]
SRC 05 021 50749

Office: TEXAS SERVICE CENTER Date: DEC 23 2005

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

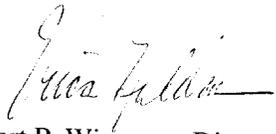
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:



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 matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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 corporation organized under the laws of the State of Florida that is doing business as an import and export company, and also offers "consulting and business advising services." The petitioner seeks to employ the beneficiary as its general manager-director.

On May 26, 2005, the director issued a notice of intent to deny asking that the petitioner supply evidence in support of the beneficiary's classification as a multinational manager or executive. The director specifically noted an insufficiency in the record in demonstrating that: (1) a qualifying relationship exists between the foreign and United States entities; (2) the beneficiary was employed abroad and would be employed in the United States in a primarily managerial or executive capacity; or (3) either organization is doing business in its respective country. The director properly notified the petitioner of its opportunity to respond within thirty days of the request.

Counsel for the petitioner responded in a letter dated June 23, 2005 requesting 45 additional days within which to respond to the director's request for evidence.

The director denied the petition on June 30, 2005, noting that the petitioner's request for additional time would not be granted. The director denied the petition based on the above-outlined grounds. The director also observed that the petitioner did not demonstrate its ability to pay the beneficiary her proffered annual salary of approximately \$54,000.

On Form I-290B, counsel states:

Respondent timely requested an extension of time to submit the evidence requested. It was an error not to grant the Respondent an extension of time. Respondent intends to submit her Memorandum of Law and supporting documents within [sic] 30 days of this notice.

Counsel filed the instant appeal on August 1, 2005. As of this date, the record does not contain a supplemental appellate brief. The AAO notes that a request for counsel's appellate brief and evidence was sent via facsimile to counsel on November 22, 2005, to which counsel responded that no brief or evidence in support of the appeal had been filed. Accordingly, the record will be considered complete.

To establish eligibility under section 203(b)(1)(C) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Counsel claims Citizenship and Immigration Services (CIS) erred in not granting the petitioner additional time during which to submit documentary evidence in support of the immigrant petition. However, counsel does not identify relevant statutory or case law that would substantiate his claim of error on the part of the director. The petitioner was provided with thirty days within which to submit a response to the director's notice. The AAO notes that during the six months that have elapsed since the notice of intent to deny was issued, the petitioner has not supplemented the record with documentary evidence, and, in fact, counsel has acknowledged the petitioner's failure to submit additional evidence. Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily 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. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.