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U.S. Citizenship  
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JUN 17 2005



FILE:



Office: TEXAS SERVICE CENTER Date:

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IN RE:

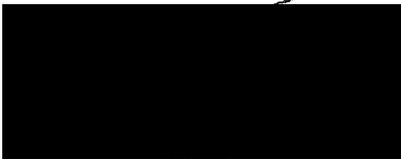
Petitioner:



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:



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 is a corporation established in June 2000 in the State of Florida. It operates a motel. It seeks to employ the beneficiary as its president. Accordingly, the petitioner 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.

On December 23, 2003, the director determined that the petitioner had not established that the beneficiary had functioned or would function primarily in a managerial or executive capacity for the foreign entity or for the U.S. petitioner. The Form I-290B mailed with the director's decision notes that the director's decision was made January 2, 2004

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."

On the Form I-290B Notice of Appeal, filed on February 2, 2004, counsel for the petitioner indicated that a brief and/or evidence would be submitted within 30 days. Counsel did not indicate why the brief would be submitted late or otherwise provide good cause for the requested extension. To date, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. Regardless, pursuant to 8 C.F.R. 103.3(a)(2)(vii), counsel's request for additional time to submit a brief is denied as a matter of discretion for failure to show good cause.

The statement on the appeal form reads:

We believe that the additional evidence submitted, which was extremely comprehensive, was more than sufficient to probe [sic] that beyond any reasonable doubt the beneficiary was acting in a managerial and executive capacity. The US organizational chart submitted with the original petition shows and clearly defines the managerial structure within [the petitioner]. In regard to the UK parent company the organizational chart also shows a clearly defined managerial structure which place[s] the beneficiary above that of first line management.

Counsel's assertion that the petitioner submitted sufficient evidence to establish the beneficiary's managerial or executive capacity is not persuasive. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Organizational charts, without documentary evidence to substantiate the organizational hierarchy, do not establish the beneficiary's managerial or executive capacity.

Inasmuch as counsel's conclusory statement does not specifically identify 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 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.

ORDER: The appeal is summarily dismissed.