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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: OCT 17 2005

WAC 04 119 53767

IN RE:

Petitioner:



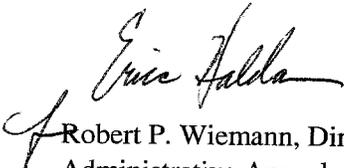
Beneficiary:

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)



**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, California Service Center, denied the employment-based visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a company organized in the State of California in September 1999. It is engaged in imports and exports. 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.

The director denied the petition on December 11, 2004, determining that the petitioner had not submitted sufficient evidence to establish: (1) that the beneficiary would be employed in a managerial or executive capacity for the United States entity; or (2) a qualifying relationship with the beneficiary's foreign employer. 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 January 3, 2005, 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 that the petitioner did not file a brief or evidence in support of the appeal; instead the record contains a second Form I-140, Immigrant Petition for Alien Worker, filed on January 13, 2005, that remains adjudicated. 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: "It will be stated in the brief to be submitted within 30 days."

Inasmuch as the petitioner does not identify an erroneous conclusion of law or a statement of fact in the director's decision as a basis for the appeal; the regulations mandate the summary dismissal of the appeal.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.