



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: TEXAS SERVICE CENTER

Date:

SEP 07 2005

SRC 03 259 53276

IN RE:

Petitioner:

[Redacted]

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:

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

The petitioner filed the instant petition seeking 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 operating a retail convenience store. The petitioner seeks to employ the beneficiary as its president – chief executive officer.

The director denied the petition concluding that the petitioner had not established that: (1) a qualifying relationship exists between the United States and foreign entities; (2) it was doing business in the United States for the requisite one year prior to filing the petition; or (3) the beneficiary has been employed abroad or will be employed in the United States in a primarily managerial or executive capacity. The director also observed that the foreign entity was not doing business at the time of filing the petition.

On the Form I-290B appeal, counsel states "[the petitioner] has additional information supporting his position that has not been previously submitted." Although counsel indicated that a brief would be submitted within thirty days, counsel did not explain why the brief would be submitted late or otherwise provide good cause for granting an extension beyond thirty days. As of this date, the record does not contain a supplemental appellate brief. 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.

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 continue rendering his or her services to the same United States 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.

As the petitioner did not identify on appeal a specific erroneous conclusion of law or statement of fact, the appeal will 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. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, it has not sustained this burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.