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**U.S. Citizenship  
and Immigration  
Services**

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FILE:



Office: VERMONT SERVICE CENTER

Date:

**JUN 01 2006**

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)

FOREIGN ATTORNEY 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The director, Vermont Service Center, denied the petition for an immigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner appears to be an organization incorporated in the State of New Jersey.<sup>1</sup> It claims to engage in providing construction specialty products. It seeks to employ the beneficiary as its accountant. Accordingly, it 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 based on the petitioner's failure to establish the following: (1) the beneficiary was employed abroad in a managerial or executive capacity; (2) the beneficiary will be employed in the United States in a managerial or executive capacity; (3) the petitioner is the same employer or a subsidiary or affiliate of the foreign entity which employed the beneficiary overseas; (4) the beneficiary has at least one year of full-time employment with a qualifying organization abroad within the three-year period prior to the petition's filing; or (5) the petitioner has been doing business for at least one year prior to the filing of the petition.

U.S. Citizenship and Immigration Services (CIS) regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). In this matter, although the petition is accompanied by a Form G-28, Notice of Entry of Appearance by an Attorney or Representative, the claimed attorney/representative has not established that he or she is a licensed attorney or an accredited representative authorized to undertake representations on the petitioner's behalf. *See* 8 C.F.R. § 292.1. In fact, the individual only indicates on Form G-28 that he or she is a member of the High Court of Maharashtra and Goa. Accordingly, the foreign attorney's appearance will not be recognized, and the appeal filed by the unauthorized counsel in this matter must be considered as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(2).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Even if the AAO were to accept the appeal as properly filed, on the Form I-290B appeal, filed on January 23, 2004, counsel simply asserts: "Being [a]ggrieved by the decision to deny the petition, both in fact & [l]aw." In the statement submitted on appeal, the petitioner further states in pertinent part:

Being aggrieved by the said decision the petitioner has preferred this appeal.

\* \* \*

We propose to furnish a detailed brief in support of our contentions. In order to respond to the issues raised, we need time for 90 days to complete and submit the brief to you for your consideration.

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<sup>1</sup> It is noted for the record that no evidence was provided regarding the legal existence of the petitioner.

Failing to receive a brief, the AAO sent a fax to counsel on September 16, 2005, notifying him or her that no brief or additional evidence was ever received and requesting a copy of any documents previously submitted in support of the appeal. As of the date of this decision, no response was ever received from counsel.

To establish eligibility under section 101(a)(15)(L) 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 temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge 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.

Inasmuch as the unauthorized counsel for the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

Finally, regarding counsel's request for oral argument, the regulations provide that the "affected party" must explain in writing why oral argument is necessary. 8 C.F.R. § 103.3(b)(1). Furthermore, CIS has the sole authority to grant or deny a request for oral argument and will grant an argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b). In this instance, counsel simply states that "[i]n view of the issues involved and reasons indicated for denial, we in the interest of justice, strongly feel the need and therefore, request an opportunity for oral arguments." Even if counsel persuaded this office why he or she could not adequately address the issues in this matter in writing, as explained and for the reasons stated herein, counsel is not and does not represent an affected party in this proceeding. Therefore, the request for an oral argument from an unauthorized representative is not properly received and must be denied.

Even if the appeal had been properly filed, the appeal would be summarily dismissed for the above stated reasons. 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 rejected.