



U.S. Citizenship  
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **MAR 21 2006**  
SRC 04 202 53320

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 Texas that is engaged in business investments and trade. The petitioner seeks to employ the beneficiary as its managing director.

The director denied the petition concluding that the petitioner had failed to demonstrate that the beneficiary had been employed abroad and would be employed by the United States entity in a primarily managerial or executive capacity.

On Form I-290B, Notice of Appeal, counsel states:

The Acting Director erred in denying the I-140 petition, and in finding that [the] beneficiary does not qualify for the immigrant classification of '[m]ulti-national executive or manager.'

In an appended letter, dated August 8, 2005, counsel requests forty-five days from the date of filing the appeal on August 15, 2005 to submit an appellate brief. As of this date, the petitioner has not submitted any additional documentation. The AAO notes that on February 13, 2006, a request was sent to counsel via facsimile for an appellate brief or additional evidence. Counsel did not respond to the AAO's request. 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. Counsel's general objection to the denial of the petition, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. The AAO notes that in addition to the discrepancies related to the beneficiary's overseas employment, the minimal job description demonstrates that the beneficiary was performing non-managerial and non-executive tasks of the foreign organization, including analyzing market conditions, maintaining government and business relations, and negotiating financial agreements and contracts. An employee who "primarily" performs the tasks necessary to produce a product or to provide services is not considered to be "primarily" employed in a managerial or executive capacity. *See* sections 101(a)(44)(A) and (B) of the Act (requiring that one "primarily" perform the enumerated managerial or executive duties); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 604 (Comm. 1988).

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 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.