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U.S. Citizenship
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Services

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FILE: WAC 05 127 53422 Office: CALIFORNIA SERVICE CENTER Date: MAR 31 2006

IN RE: Petitioner:
Beneficiary:



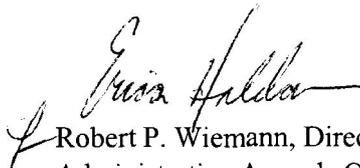
PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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, California 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 California that is engaged in the sale of magnetic media products, such as floppy diskettes, Zip disks, CD-R's, DVD-R's, full service replication, inkjet cartridges and portable audios. The petitioner seeks to employ the beneficiary as its president.

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

On Form I-290B, Notice of Appeal, dated October 25, 2005, counsel contends:

USCIS denied the I-140 petition on the ground that the submitted evidence was insufficient to demonstrate that the Beneficiary has been or will be functioning in a managerial or executive capacity. Arguments as well as documents will be submitted to demonstrate that the Beneficiary has been performing the managerial and/or executive duties including evidence to show that the staff he manages are professionals.

Counsel requests thirty days from the date of filing the appeal to submit an appellate brief.

As of this date, counsel has not submitted any additional documentation. The AAO notes that on March 2, 2006, a request was sent to counsel via facsimile for an appellate brief or additional evidence. Counsel responded on March 8, 2006, indicating that he had not filed a brief or evidence as previously noted on Form I-290B. 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 identifying any specific errors on the part of the director, are simply insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

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.