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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

JUN 25 2003

FILE: SRC-01-251-50315 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is a computer hardware sales company. It seeks authorization to employ the beneficiary temporarily in the United States as its general manager. The director, in denying the petition, determined that the petitioner had not established that the beneficiary will be employed primarily in a qualifying managerial or executive capacity pursuant to 8 C.F.R. §§ 214.2(1) (1) (ii) (B) and (C). In addition, the director determined that the petitioner had failed to establish that he is doing business as defined by 8 C.F.R. § 214.2(1) (1) (ii) (H).

Counsel for the petitioner stated that the reason for appeal is "[t]o show that the beneficiary had the requisite qualifications to be eligible for the classification of nonimmigrant worker as an executive or manager (L-1A) [status.]"

Counsel indicated that additional evidence would be submitted in support of the appeal on or before March 7, 2002. To date, no additional evidence has been received by this office. Therefore the record must be considered complete.

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. The filing by an attorney or representative accredited under 8 CFR 292.2(d) of an appeal which is summarily dismissed under this section may constitute frivolous behavior as defined in 8 CFR 292.3(a) (15). Summary dismissal of an appeal under § 103.3(a) (1) (v) in no way limits the other grounds and procedures for

> disciplinary action against attorneys or representatives provided in 8 CFR 292.2 or in any other statute or regulation.

On appeal, counsel fails to submit a definite statement addressing issues raised by the Director in her decision. Counsel's generic, non-specific statement of appeal fails to identify specifically any erroneous conclusion of law or statement of fact.

In as much as the petitioner's request for appeal fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be dismissed in accordance with 8 C.F.R. § 103.3(a) (1) (v). 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 sustained that burden.

ORDER: The appeal is summarily dismissed.