

PUBLIC COPY

U.S. Department of Homeland Security
Citizenship and Immigration Services

D7

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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

[REDACTED]

FILE: LIN-02-009-51571 Office: NEBRASKA SERVICE CENTER

Date:

NOV 19 2003

IN RE: Petitioner:
Beneficiary:

[REDACTED]

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

IN BEHALF OF PETITIONER:

[REDACTED]

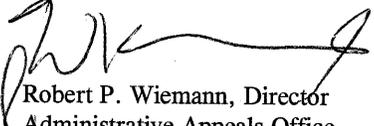
INSTRUCTIONS:

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 Citizenship and Immigration Services (CIS) 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 Director, Nebraska Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is an Illinois company engaged in the retail and wholesale of decorative merchandise. It has employed the beneficiary since October 18, 2000 as the president and general manager of its new office, and, in a petition filed October 12, 2001, seeks to extend the beneficiary's L-1A status. The director denied the petition for an extension stating that the record does not establish that the new office has grown sufficiently through income, staffing, or organizational hierarchy to support the beneficiary in an L-1A capacity. The director further notes that, with one other employee in the organization, the beneficiary is not relieved from performing day-to-day nonqualifying duties.

In an appeal dated April 25, 2002, the petitioner's counsel asserts that the CIS erred when it denied the beneficiary's petition for an L-1A visa extension. In addition, counsel stated:

The petitioner fulfills the criteria enumerated under section 101(a)(15)(H) [sic] of the Immigration and Naturalization Service and merits the classification sought. The evidence that will be submitted with the brief [sic] will clearly and unambiguously [sic] prove that the [CIS] erred in this matter when it denied the petitioner's petition.

Counsel indicated on the appeal form that a brief and evidence would be submitted to the AAO within thirty days of filing the appeal. To date, more than a year later, a thorough review of the record has revealed no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. Therefore, the record will 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.

On appeal, counsel did not identify any particular fact that was not properly considered by the director. Nor did counsel cite

any precedent case law that would support counsel's assertion on appeal. In fact, the only reference to law made by counsel is an erroneous citation to the regulations. The applicable regulation in the instant case is Section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101, which pertains to an intracompany transferee.

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 counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for this appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.