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

**identifying data deleted to
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invasion of personal privacy**

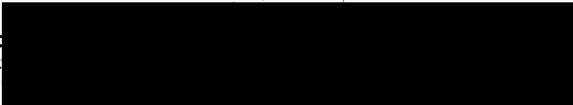
ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



FILE: WAC-01-137-54930 Office: CALIFORNIA SERVICE CENTER

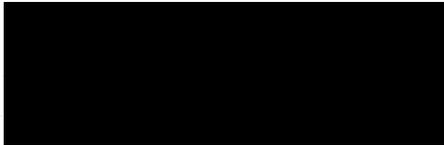
Date: OCT 21 2003

IN RE: Petitioner:
Beneficiary:



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).

IN BEHALF OF PETITIONER:



PUBLIC COPY

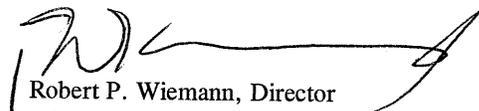
INSTRUCTIONS:

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, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification for the beneficiary as a nonimmigrant manager or executive pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is engaged in the software industry and provides consulting services. It seeks an extension of stay for the beneficiary, as managing director, in the United States. The director determined that the petitioner had failed to demonstrate that the beneficiary had been or would be employed in a managerial or executive capacity. The director also determined that the evidence submitted was not persuasive to establish that the beneficiary will be managing a subordinate staff of professional, managerial, or supervisory personnel who would relieve the beneficiary from non-qualifying duties. Finally, the director found that the petitioner had failed to show evidence that the beneficiary was not performing most of the work of the business as a computer consultant. The record contains conflicting information between the federal and state tax returns regarding consulting fees, the rate of compensation listed in the contract for the consultant, and the failure to submit quarterly wage reports showing other employees hired.

On appeal, counsel stated that he would submit a brief and/or evidence to the AAO within 30 days. Counsel dated the appeal November 20, 2001. The appeal was received December 4, 2001. As of this date, more than 24 months later, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 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. Since counsel failed to identify specifically an erroneous conclusion of law or statement of fact in this proceeding, the petitioner has not sustained the burden of proving eligibility.

Counsel has not addressed the reasons stated for the denial and has not provided any additional evidence. The appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.