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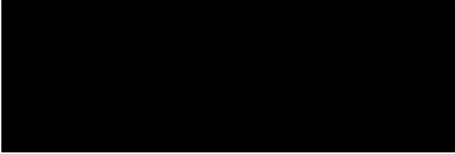
U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
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D7



FILE: SRC 03 045 50246 Office: TEXAS SERVICE CENTER Date: APR 19 2004

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

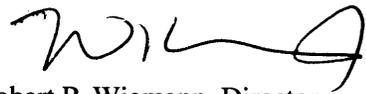
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-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 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 a new U.S. office engaged in import, export, sales and trade. The petitioner currently employs the beneficiary as president, and seeks to extend the beneficiary's temporary employment for three years. The petitioner filed a petition requesting the continuation of the beneficiary's classification as a nonimmigrant intracompany transferee.

In her decision, the director stated that the petitioning organization, which employs the beneficiary, a store manager, and a "regular employee," did not establish that the beneficiary would be "engaged in primarily executive duties a preponderance of the time as the business has not yet expanded to the point where the services of a full-time, bona-fide president would be required." The director consequently denied the petition concluding that the beneficiary would not be employed in the United States in a primarily executive capacity.

On appeal, the petitioner asks that the director reconsider her decision as it has an economical effect on the beneficiary and his family.¹ The petitioner explains that the delay in the beneficiary's receipt of his passport and visa prevented him from starting operations in the United States until June 2002, six months prior to the expiration of his L-1A visa. The petitioner resubmits a November 20, 2002 letter, in which the beneficiary explains the delay in receiving his L-1A visa.

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 petitioner did not identify any particular fact or conclusion of law that was not properly considered by the director in making her decision that the beneficiary would not be employed in a primarily executive capacity.

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.

¹ It should be noted that the beneficiary is identified on the Form I-290B, Notice of Appeal, as the "person filing [the] appeal." The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states that for purposes of an appeal, the "affected party" means the person or entity with legal standing in a proceeding, and does not include the beneficiary of a visa petition. As the beneficiary is presently the president of the petitioning organization, it is not clear whether the beneficiary filed the appeal on behalf of the organization, or if the appeal was filed by the beneficiary on his own behalf. Because the appeal will be summarily dismissed, the AAO will not address this issue further.