



U.S. Citizenship
and Immigration
Services

07



FILE: EAC 02 213 52768 Office: VERMONT SERVICE CENTER Date: 01/14/14

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

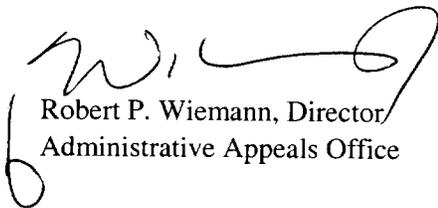
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



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, Vermont 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 states that it is engaged in the sale of perfumes and jewelry. It seeks to employ the beneficiary temporarily in the United States as its president, pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition based on the conclusion that the beneficiary would not be employed by the United States entity in a primarily managerial or executive capacity.

On appeal, counsel submits a brief that contains a similar job description for the beneficiary and essentially the same explanation of the petitioner's staffing levels as was previously provided in counsel's September 30, 2002 response to the director's request for evidence. Counsel does not specifically address in his brief on appeal the issues raised by the director in his decision related to the non-managerial and non-executive nature of the proffered position.

To establish eligibility under section 101(a)(15)(L) 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 temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The director, noting that the beneficiary's job description is vague, correctly determined that the beneficiary would not be relieved from performing the non-qualifying functions of the petitioning organization within one year of approval of the petition. While the petitioner explained its proposed staffing structure, it does not appear that the petitioner would employ a staff sufficient to perform the daily functions of the business, specifically the petitioner's budgeting and financial planning.

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.

As noted above, counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. Counsel's brief on appeal is merely a restatement of the testimony already in the record. Accordingly, 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.