

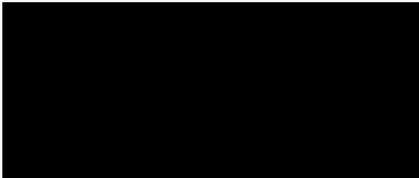
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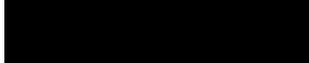
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**U.S. Citizenship
and Immigration
Services**



FILE: SRC 02 121 52440 Office: TEXAS SERVICE CENTER Date: **JAN 21 2004**

IN RE: Petitioner: 
Beneficiary: 

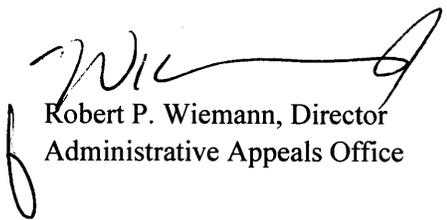
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

Self-represented.

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 Appeal Office (AAO) on appeal.¹ The appeal will be summarily dismissed.

The petitioner is operating as an importer, dealer, and retailer of “general merchandise” from the parent company in India. The petitioner seeks to extend the temporary employment of the beneficiary as vice-president in the United States. In a decision dated July 29, 2002, the director denied the petition to extend the beneficiary’s status as an intracompany transferee stating that the petitioner had failed to demonstrate that the beneficiary is employed in the United States in a primarily managerial or executive capacity.

On August 30, 2002, the petitioner appealed the director’s decision stating the reason for the appeal was because it “[had been] aggrieved by the denial decision both in fact [and] law.” The petitioner requested ninety days from the date of the appeal to submit a brief. In addition, the petitioner requested an opportunity for oral argument stating that “in view of the issues involved and reasons indicated for the denial,” and “in the interest of justice” the request should be granted.

To date, more than a year later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

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 specifically identify any particular fact that was not properly considered by the director in making her decision. The petitioner only stated that it would furnish a detailed brief in support of its contentions. Nor did the petitioner cite any precedent case law that would support petitioner’s assertion on appeal.

Furthermore, with regard to a request for an oral argument, the regulation at 8 C.F.R. § 103.3(b)(1) provides the following:

If the affected party desires oral argument, the affected party must explain in writing specifically why oral argument is necessary. For such a request to be considered, it must be submitted within the time allowed for meeting other requirements.

The regulation at 8 C.F.R. § 103.3(b)(2) further states that CIS has sole authority to grant or deny a request for oral argument.

¹ Although the record contains materials that were prepared by an attorney, the petitioner will be treated as self-represented. According to the Form G-28 on record, the attorney is not a member in good standing of the bar of the highest court of any State, possession, territory, commonwealth, or the District of Columbia. See 8 C.F.R. § 292.1.

The petitioner in the present case has failed to submit a detailed written statement specifically addressing the need for oral argument. As stated above, the petitioner simply claimed that oral argument should be granted “in the interest of justice.”

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 the petitioner 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. Additionally, because the petitioner has failed to submit a specific statement in support of oral argument, the request will be denied.

ORDER: The appeal is summarily dismissed.