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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

JUL 08 2004

FILE: LIN 03 028 50528 Office: NEBRASKA SERVICE CENTER Date:

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:

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 nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner claims to be in the business of exporting poultry, motor-vehicle parts, and semi-trailer trucks to the foreign entity from the United States. It seeks to employ the beneficiary temporarily in the United States in a managerial or executive capacity, namely as its director of transportation. The director determined that the petitioner failed to provide sufficient evidence to establish that (1) there was a qualifying relationship between the U.S. and foreign entity; (2) the U.S. entity is not currently doing business; (3) the petitioner had secured sufficient physical premises to house the new office; and (4) the beneficiary had been and would be employed primarily in a qualifying managerial or executive capacity or that the U.S. entity will be able to support such a position within one year of approving the petition.

On appeal, counsel indicated that he would submit a brief and/or evidence to the AAO within 30 days. The notice of appeal is dated February 26, 2003. To date, the AAO has not received any additional evidence. Therefore, the record is considered complete.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states in part:

Summary dismissal. 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 counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.