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



U.S. Citizenship
and Immigration
Services

FILE: SRC 02 128 53254 Office: TEXAS SERVICE CENTER Date: JUL 12 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-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 AAO will dismiss the appeal.

The petitioner is a new U.S. company that provides packaging services. It seeks to employ the beneficiary as its chief financial officer, and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee.

The director denied the petition concluding that the petitioner had failed to demonstrate the following: (1) that the beneficiary's previous employment abroad was in a qualifying capacity; (2) that within one year of approval of the petition the beneficiary would be employed in the U.S. entity in a primarily managerial or executive capacity; (3) that the foreign and U.S. entities are qualifying organizations; and (4) that sufficient physical premises to house the new office have been obtained by the petition. The director also noted that pursuant to the regulation at 8 C.F.R. § 248.1(b), the beneficiary is ineligible for a change from his B-2 status as the petition was filed ten days following the expiration of his nonimmigrant status.

On appeal, the petitioner denies the director's findings, stating that: (1) the beneficiary was employed abroad for one continuous year; (2) the U.S. company is a subsidiary of the foreign entity; (3) the foreign company is currently doing business; (4) the petitioning organization will support the beneficiary's employment in an executive position; and (5) sufficient premises for the U.S. office have been secured. The petitioner also cites the regulation at 8 C.F.R. § 248.1(b) as providing exceptions for the failure to file for a change of status prior to the expiration of one's nonimmigrant status. Although the petitioner states that additional documentation is submitted with the appeal, no further evidence was provided.

In the present matter, the petitioner has not submitted any additional evidence on appeal that would substantiate the petitioner's claim that the beneficiary qualifies for classification as a nonimmigrant intracompany transferee. The petitioner's mere assertions that the beneficiary has been and would be employed in a qualifying capacity, and that the foreign and U.S. entities are qualifying organizations do not satisfy the regulations. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Although the petitioner correctly cites the regulation at 8 C.F.R. § 248.1(b) as providing an exception to an untimely filed petition for a change of status, the petitioner provides no evidence that it has met the regulatory requirements. The petitioner stated only that the petition could not be timely filed because the supporting documents were not yet translated. The petitioner has not demonstrated that the petition was untimely filed as a result of "extraordinary circumstances beyond the control of the applicant or petitioner." *Id.* Again, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. at 194.

For the foregoing reasons, the appeal will be 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. Here, that burden has not been met. Accordingly, the director's decision will be affirmed and the petition will be denied.

ORDER: The appeal is dismissed.