



U.S. Citizenship
and Immigration
Services

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JUN 03 2004



FILE: *EAC 02 210 52904 Office: VERMONT SERVICE CENTER Date:

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

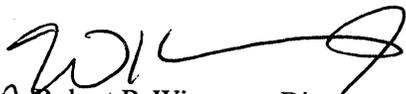
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 is engaged in the development of computer software. It currently employs the beneficiary as a project manager/systems analyst, and seeks to extend the employment of the beneficiary for an additional two years. The petitioner filed a petition to extend the beneficiary's classification as a nonimmigrant intracompany transferee.

The director denied the petition stating that the record failed to establish that the beneficiary has been or would be employed in the U.S. entity in a primarily managerial or executive position. The director noted that the beneficiary is employed in two positions, project manager and systems analyst. The director further noted that the petitioner indicated in its response to the director's request for evidence that the beneficiary would function as a project manager directing two computer programmers 15% of the time. The director stated that the majority of the beneficiary's time, 85%, would be spent in software development performing the tasks necessary to produce a product. The director consequently denied the petition.

In an appeal dated January 8, 2003, counsel claims that Citizenship and Immigration Services (CIS) "misread or misinterpreted the evidence" regarding the amount of time the beneficiary spent performing managerial duties. Counsel indicates on Form I-290B Notice of Appeal that no additional evidence would be submitted on appeal.

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.

Counsel did not identify any particular fact or precedent case law that was not properly considered by the director in making his decision.

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 specifically identify 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.