

Identifying data deleted to
prevent identity information
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

DM

MAR 23 2004



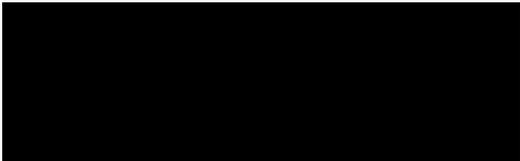
FILE: WAC 02 127 53262 Office: CALIFORNIA SERVICE CENTER Date:

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 Director, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeal Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a trading company. It currently employs the beneficiary as president, and filed a petition to extend the employment of the beneficiary as an intracompany transferee pursuant to section 101(a)(15)(L) of the Act, 8 U.S.C. § 1101(a)(15)(L). The director denied the petition concluding that the beneficiary was not employed in the United States in a primarily managerial or executive capacity.

On appeal, counsel asserts that the evidence previously submitted is sufficient to demonstrate that the beneficiary will be employed in a managerial and executive capacity. Counsel contends that “the size of the company, the company’s financial information, and the number of employees is not relevant to determine [sic] whether the beneficiary’s duties are managerial and/or executive in nature.” Counsel states that a brief will be submitted to the AAO within thirty days of filing the appeal. To date, 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.

Counsel did not identify any particular fact that was not properly considered by the director in making his decision. Nor did counsel cite any precedent case law that would support counsel’s assertion on appeal.

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 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.

ORDER: The appeal is summarily dismissed.