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U.S. Citizenship
and Immigration
Services

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MAY 06 2004

FILE: SRC 00 267 55173 Office: TEXAS 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:

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

The petitioner, Darper Corporation., endeavors to classify the beneficiary as a manager or executive pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner claims it is a subsidiary of Turees De Colombia, Ltda. located in Colombia and is engaged in the transportation business. It seeks to extend the petition's validity and the beneficiary's stay for three years as the U.S. entity's sales manager. The petitioner was incorporated on November 30, 1998 and claims to have five employees.

On March 14, 2001, the director denied the petition because the petitioner did not establish that the beneficiary will be employed in a primarily managerial or executive capacity. The director also determined that the petitioner and foreign entity did not have a qualifying relationship.

On April 19, 2001, the petitioner appealed the director's decision. On appeal, the beneficiary states, "The poor services of my attorney and the unprofessional manner that she has managed this case, I am respectfully requesting an additional time to file a proper appeal with the appropriate documents and I can retained the services of other attorney." As of this date, more than 34 months after the petitioner filed for an appeal, the AAO has not received any further information from the petitioner. As the petitioner has failed to specifically identify any erroneous conclusion of law or statement of fact, the appeal must be summarily dismissed.

In relevant part, the regulations at 8 C.F.R. § 103.3(a)(1)(v) state that an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. *Id.*

In addition, any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988).

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.

ORDER: The appeal is summarily dismissed.