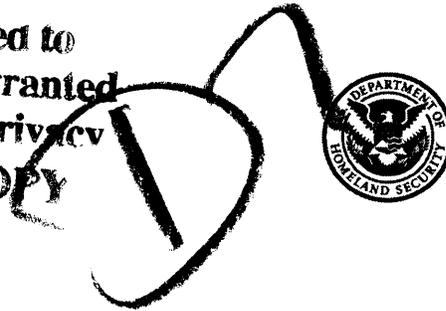


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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship
and Immigration
Services



FILE: WAC 01 197 54121 Office: CALIFORNIA SERVICE CENTER Date: MAY 06 2004

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

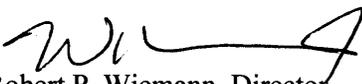
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-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 Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a new U.S. office engaged in the marketing of health products. It seeks to employ the beneficiary as its president and general manager, and filed a petition to classify the beneficiary as a nonimmigrant intracompany transferee. The director denied the petition concluding that the petitioner failed to establish: (1) that a qualifying relationship existed between the U.S. and foreign organizations; and, (2) that the beneficiary had been employed abroad in a primarily managerial or executive capacity.

On appeal, the petitioner asserts that evidence was provided with the petition establishing that the beneficiary was employed in a managerial or executive position, and that the U.S. entity is a wholly owned subsidiary of the foreign entity. The petitioner also claims that the director "did not take into consideration the fact that the United States entity was [a] new office, and was in the process of start-up operation[s]." The petitioner submits no additional evidence 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.

While the petitioner asserts on appeal that the director did not consider that the U.S. entity is a new office, the classification of the petitioner as a new office is not a factor in determining whether the beneficiary is employed as a manager or executive, or whether a parent/subsidiary relationship exists between the foreign and U.S. organizations. The petitioner therefore did not identify any particular fact that was not properly considered by the director in making his decision. Additionally, the petitioner did not cite any precedent case law that would support its assertions 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 the petitioner 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.