



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

FILE: LIN 02 262 52416 Office: NEBRASKA SERVICE CENTER Date: OCT 25 2004

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

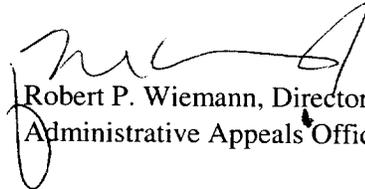
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[REDACTED]

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

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prevent disclosure of unredacted  
information and to prevent  
invasion of personal privacy

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**DISCUSSION:** The Director, Nebraska 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 states that it is a Delaware corporation engaged in the business of software development and software consulting. It seeks to employ the beneficiary temporarily in the United States as its director of program management, pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition concluding that the petitioner has not sufficiently established that (1) the beneficiary has been employed abroad for one continuous year within the three years preceding the filing of the petition in a primarily managerial or executive capacity; or 2) the beneficiary would be employed in a primarily managerial or executive capacity in the United States.

On the Form I-290B appeal, counsel simply asserts that "Service has failed to properly apply the law under 8 CFR 214.2(l)(1) and INA § 101(a)(15)(L)" and "Petitioner has submitted proper and sufficient documentation to support the nonimmigrant worker petition." Counsel further states that a brief or evidence would be submitted to the AAO within 30 days. The appeal was filed on March 26, 2003. As of this date, the AAO has received nothing further and the record will be considered complete.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

The regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily 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. The petitioner has not met this burden.

**ORDER:** The appeal is summarily dismissed.