

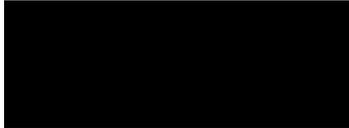
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE:



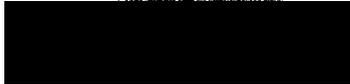
Office: VERMONT SERVICE CENTER

Date:

JUL 12 2005

IN RE:

Petitioner:



Beneficiary:

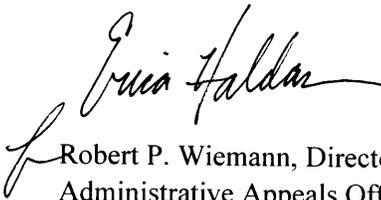
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, 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 states that it operates as a jewelry trader. It seeks to employ the beneficiary temporarily in the United States as its President, 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 failed to establish that the beneficiary will be employed in a primarily managerial or executive capacity.

On the Form I-290B appeal, counsel simply asserts: "We will be submitting further evidence, which establishes that the beneficiary will be working in a managerial capacity." Counsel indicated that he would be sending a brief and/or evidence to the AAO within 30 days. The appeal was filed on January 20, 2004. As of June 21, 2005, 17 months after the date of filing, the AAO had received no further correspondence from counsel or the petitioner. On June 21, 2005, the AAO sent notification to counsel by facsimile that no further materials had been received in connection with the appeal, and affording counsel five business days to respond before a decision is rendered. As of the date of this decision, the AAO has received no further evidence or correspondence from counsel or the petitioner. Thus, counsel's statement on appeal is limited to the sentence on Form I-290B as quoted above. Counsel fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

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.

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.