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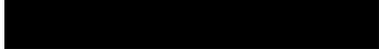
**U.S. Citizenship
and Immigration
Services**

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File: SRC 03 222 51725 Office: TEXAS SERVICE CENTER Date: JUN 29 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)

IN 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 Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The U.S. petitioner, a corporation organized in the State of Texas, is engaged in the wholesale and retail of arts and crafts items. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its president. The director denied the petition based on the conclusion that the petitioner failed to establish that the beneficiary would be employed in a managerial or executive capacity.

On appeal, counsel¹ for the petitioner indicated on Form I-290B that it would submit a brief and/or additional evidence to address the director's denial within 30 days. Although counsel submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, counsel presents an overview of the status of retailers in San Antonio and discusses the decline in tourism in the previous year. Counsel claims that as a result of this decline in tourism, the petitioner will shift its focus to wholesale. She states that the petitioner intends to build its sales strategy by attending trade shows and wholesaling markets and that for trade shows, three persons will initially be needed. With regard to the beneficiary, counsel states that the beneficiary "will be the person in charge of putting all this to work." Counsel concludes by stating that the beneficiary has been traveling to different trade shows to see how the business works in addition to his duties listed in the petition.

Counsel's general statements on the Form I-290B discuss the petitioner's business plans. These statements, however, fail to specifically identify any errors on the part of the director. Consequently, these statements are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

On the Notice of Appeal received on January 23, 2004, counsel for the petitioner clearly indicates that she would send a brief with the necessary evidence [to the AAO] within thirty days. According to 8 C.F.R. § 103.3(a)(2)(i), the petitioner "shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision," which in the case at hand would be no later than Monday, January 26, 2004. While the petitioner may request that it be granted additional time to submit an appeal, no such request was made in this case. See 8 C.F.R. § 103.3(a)(2)(vii). Even if additional time to submit a brief in support of the appeal had been requested and approved, to date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the

¹ The regulation at 8 C.F.R. § 292.4(a) states in pertinent part that "[a] notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service." Counsel in this matter submitted a Form G-28 that was not signed by the petitioner and, thus, counsel did not properly enter its appearance before and may not be recognized as the petitioner's counsel by the Service.

appeal with the Service or with the AAO.² As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

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.

The filing by an attorney of an appeal that is summarily dismissed under this section may constitute frivolous behavior as defined in 8 C.F.R. §292.3(a)(15).

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 in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.

cc:



² In a fax received on May 6, 2005, counsel for the petitioner confirmed that no brief or additional evidence had been submitted in this matter. Counsel acknowledged that a separate statement, discussed above, was filed with the Form I-290B.