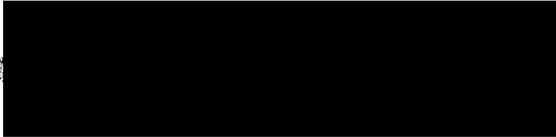


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U.S. Citizenship  
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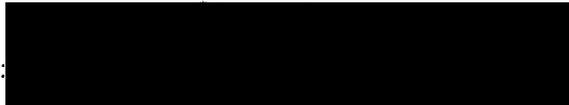
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FILE: SRC 03 230 51567 Office: TEXAS SERVICE CENTER Date: MAR 01 2005

IN RE: Petitioner:  
Beneficiary:

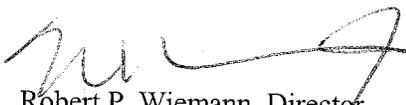


PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER: 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 appeal will be summarily dismissed.

The petitioner states that it is a janitorial services company. 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 has been and will continue to be employed in a managerial or executive capacity.

On appeal, 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 the petitioner submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, the petitioner states that the director did not take into consideration the evidentiary documentation sent by the petitioner in support of the petition. The petitioner identifies this relevant documentation as a statement by the petitioner regarding the beneficiary's duties as well as a flowchart which demonstrates the beneficiary's position and the manner in which she supervises the petitioner's other employees. However, the director did a thorough analysis and specifically discussed the flowchart in the decision. Furthermore, the director restated the petitioner's description of the beneficiary's duties and the percentage of time devoted to each, and pointedly discussed the inconsistencies among these documents and the requirements of the regulations. The petitioner's general objections on the Form I-290B, without specifically identifying any errors on the part of the director, 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 December 23, 2003, the petitioner clearly indicates that it 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 Wednesday, January 7, 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 appeal with the Service or with the AAO. As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, and 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.

Contrary to the petitioner's assertions, the facts of the case do not speak for themselves, particularly in light of the director's detailed list of reasons for denying the petition. Rather, the record shows a number of deficiencies, including the petitioner's failure to submit any evidence establishing that it employs the staff required to support the beneficiary's managerial or executive position. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). In the instant case, the petitioner fails to acknowledge or address the director's reasons for the denial. Accordingly, the appeal will be summarily dismissed.

Moreover, it should be noted for the record that in addition to the reasons issued by the director in the denial, the petitioner failed to demonstrate that it met the requirement of "doing business" for the previous year from the date of filing of the extension request. See 8 C.F.R. § 214.2(l)(14)(i)(B). According to 8 C.F.R. § 214.2(l)(ii)(H), "doing business" is defined as "the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad." The petitioner admits in its letter dated August 16, 2003 that the U.S. entity "began operations in The [sic] United States in 2003." This admission by the petitioner combined with (1) the lack of evidence submitted with regard to the company's business operations in the United States for the past year and (2) the fact that the U.S. company's sole employee at the time, the beneficiary, did not enter the United States to assume her duties until December 8, 2002 clearly demonstrates that the petitioner did not and could not meet the requirements of 8 C.F.R. § 214.2(l)(14)(i)(B) by the time the initial L-1 Petition expired on September 1, 2003. For this reason alone, the petition must be denied.

The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in CIS regulations that allows for an extension of this one-year period. If the business does not have sufficient staffing after one year to relieve the beneficiary from primarily performing operational and administrative tasks, the petitioner is ineligible by regulation for an extension.

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.