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U.S. Citizenship
and Immigration
Services

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FILE: EAC 02 237 52417 Office: VERMONT SERVICE CENTER Date: MAY 11 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 petitioner subsequently filed a motion to reconsider. The director granted the motion and affirmed his decision to deny the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner states that it is engaged in the travel industry. It seeks to extend its authorization 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 had not established that the beneficiary has been or will be employed in a managerial or executive capacity.

On the Form I-290B appeal submitted on February 9, 2004, counsel simply asserts: "We will be submitting additional documentations [sic], which will prove that the beneficiary will be employed in a professional or managerial Capacity." Although counsel indicates that a brief and/or evidence would be submitted within 30 days, counsel did not indicate why the brief would be submitted late or otherwise provide good cause for the requested extension. As of this date, the record does not contain a supplemental appellate brief. Regardless, pursuant to 8 C.F.R. § 103.3(a)(2)(vii), counsel's request for additional time to submit a brief is denied as a matter of discretion for failure to show good cause, 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.

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. Here, the petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.