



U.S. Citizenship
and Immigration
Services

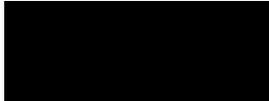
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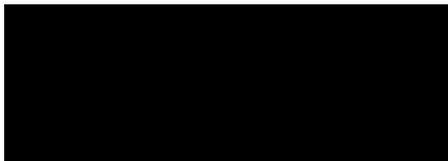
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FILE: WAC 03 248 54568 Office: CALIFORNIA SERVICE CENTER Date: **NOV 08 2005**

IN RE: Petitioner: 
Beneficiary:

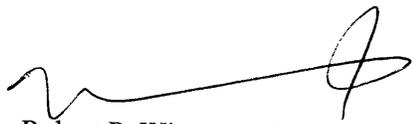
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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

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DISCUSSION: The Director, California 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 engaged in the import and distribution of photographic products from the United Kingdom. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its CEO/marketing director, 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 April 12, 2004, counsel simply asserts: "CSC does not understand the concept of contractors working under an executive." Counsel indicated that a brief would be submitted within 30 days. As of this date, the record does not contain a supplemental appellate brief.

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. Counsel's assertion that the director did not take into account the petitioner's contracted employees is insufficient to overcome the director's logical and well-reasoned conclusion that the beneficiary in this case would be primarily performing the routine operational duties of the petitioner's business, rather than performing managerial or executive-level duties. Furthermore, the director's decision clearly acknowledges the petitioner's unsubstantiated claim that the company employs sales representatives throughout the United States on a contract basis. Counsel's claim that such staff was not considered is not persuasive.

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.