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U.S. Citizenship
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FILE: SRC-04-063-52488 Office: TEXAS SERVICE CENTER Date: **AUG 03 2006**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:
[Redacted]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
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 money transfer service. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its general manager. The director denied the petition based on the conclusion that the petitioner failed to establish: 1) that the petitioner has a qualifying relationship with the claimed foreign entity; 2) that the petitioner has been doing business for one year; 3) that the foreign entity is currently doing business; and 4) that the beneficiary has been and will continue to be employed in a managerial or executive capacity.

On appeal, counsel requested an additional 30 days in which to submit a brief addressing the director's denial. Although counsel has submitted a brief, he failed to adequately address the director's conclusions. The AAO would note that this petition is for the extension of a new office and the evidentiary requirements of 8 C.F.R. § 214.2(l)(2) and 8 C.F.R. § 214.2(l)(14). Despite the petitioner's failure to submit the required initial evidence counsel cites an inapplicable interoffice memorandum as the basis of petitioner's appeal. William Yates, Assoc. Dir. Of Operations, "Significance of a Prior CIS Approval" (April 23, 2004) (Yates Memo).

The director did a thorough analysis and specifically discussed inconsistencies among a number of the submitted documents. Counsel's general objections to the denial of the petition, 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. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter Of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). 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).

Contrary to counsel's assertions, the standard applied by the director was within their authorized discretion, particularly in light of the director's detailed list of reasons for denying the petition. Further, the memo cited by counsel clearly and unambiguously states that it does not apply to L-1A new office extensions. *See Yates Memo* at 2, n. 1 (noting that the memorandum does not apply to new office L-1 extensions).

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.

Summary dismissal under this section may constitute frivolous behavior as defined by 8 C.F.R. § 292.3(a)(15). In this case counsel did not specifically identify any errors as a matter of fact or law, and based the petitioner's appeal on an inapplicable interoffice memo which clearly states that it did not apply to this visa classification.

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

SRC-04-063-52488

Page 3

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.