

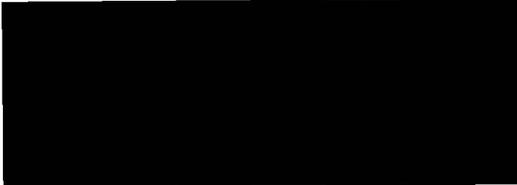
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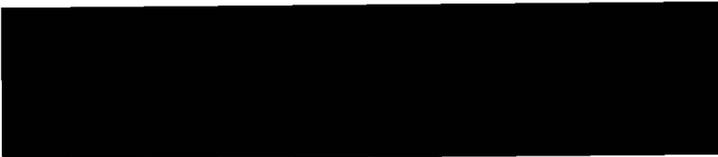


FILE: EAC-04-050-53061 Office: VERMONT SERVICE CENTER Date: JUL 11 2006

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 business of manufacturing video equipment and polyester/nylon film. It seeks to employ the beneficiary temporarily in the United States as its production manager, 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 based on the following independent conclusions: 1) the petitioner did not establish that the position for which the beneficiary was being transferred required specialized knowledge; and (2) the petitioner did not establish that the beneficiary possessed specialized knowledge.

The petitioner filed an appeal on April 11, 2004. On the Form I-290B, counsel simply asserts: "[t]he service's decision . . . was in error as the company provided substantial evidence that the alien was among the company's most knowledgeable employees. . . ." Counsel further states that a brief or evidence would be submitted to the AAO within 30 days. As of this date, the AAO has received nothing further and the record will be considered complete.¹

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 addition, the AAO would note for the record that several assertions of the petitioner indicate that it is not eligible to receive this classification. Specifically, the petitioner has made confusing statements with regard to whether the petitioner or a temp agency would employ the beneficiary. The petitioner also failed to specifically respond to a number of items requested by the director in a request for evidence issued on December 23, 2004. 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).

¹ On December 14, 2005, the AAO sent a fax to counsel for petitioner. The fax advised counsel that no evidence or brief had ever been received in this matter and requested that counsel submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. As of the date of this decision, the AAO has received no response from counsel or the petitioner.

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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. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.