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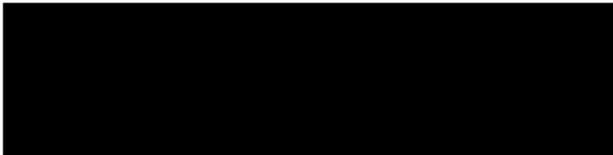
File: WAC 05 053 51069 Office: CALIFORNIA SERVICE CENTER Date: DEC 04 2007

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)

IN 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: On June 2, 2005, the Director of the California Service Center denied the petition for a nonimmigrant visa. The petitioner appealed this denial to the Administrative Appeals Office (AAO), and, on February 1, 2007, the AAO dismissed the appeal. On March 6, 2007, counsel to the petitioner filed a Motion to Reopen the AAO's decision in accordance with 8 C.F.R. § 103.5. The Motion will be dismissed as moot and dismissed pursuant to 8 C.F.R. §§103.5(a)(2) and (a)(4).

The petitioner filed this nonimmigrant visa petition seeking to extend the employment of its president as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a corporation organized under the laws of the State of California and is allegedly a distributor and manufacturer of doors and windows. The director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity, and, on February 1, 2007, the AAO dismissed the subsequently filed appeal.

On March 6, 2007, the petitioner filed a Motion to Reopen pursuant to 8 C.F.R. § 103.5. Counsel submitted a brief and supporting materials on March 27, 2007.

Upon review, the motion will be dismissed.

First, a review of Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved immigrant petition and has adjusted status to that of a permanent resident on August 9, 2007 (WAC 06 221 52155). While the petitioner has not withdrawn the motion in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, this motion is dismissed.

Second, even though the motion is being dismissed as moot, the motion also fails to meet the applicable requirements in 8 C.F.R. § 103.5(a)(2) and must be dismissed for this reason. 8 C.F.R. § 103.5(a)(4). Title 8 C.F.R. § 103.5(a)(2) states in pertinent part that "[a] motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence." Unlike appeals, the regulations pertaining to motions do not permit the filing of briefs or additional evidence after the filing of the motion. Therefore, as counsel's brief and additional evidence submitted three weeks after the filing of the motion may not be considered by the AAO in its consideration of the motion, the instant motion filed on March 6, 2007 does not state the new facts to be provided and is not supported by any evidence, and thus does not meet the applicable requirements. 8 C.F.R. § 103.5(a)(4).

Accordingly, the motion will be dismissed for this additional reason.

ORDER: The motion is dismissed.