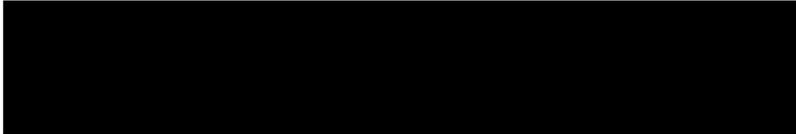


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U.S. Citizenship
and Immigration
Services

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File: EAC 05 084 50535 Office: VERMONT SERVICE CENTER Date: FEB 01 2007

IN RE: Petitioner:
Beneficiary:



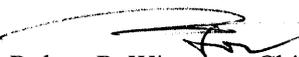
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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: 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 filed this nonimmigrant visa petition seeking to employ the beneficiary as its sales director to open a new office in the United States 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 Delaware and is allegedly engaged in the business of "international broadcast distribution and consulting."

The director denied the petition concluding that the petitioner did not establish that the intended United States operation, within one year of the approval of the petition, will support an executive or managerial position. 8 C.F.R. § 214.2(l)(3)(v)(C).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On December 19, 2006, the AAO sent a fax to counsel advising her that no evidence or brief had ever been received in this matter and requested that she submit a copy of the brief and/or additional evidence, if in fact such evidence or brief had been submitted. Counsel responded on December 21, 2006 by providing a copy of a brief concerning the denial of the L-1A petition dated November 3, 2005. The cover letter, which apparently accompanied this brief when sent by "express mail," indicates that it was sent to the Vermont Service Center. However, the certificate of service which accompanies the brief indicates that it was sent by "first class express mail" to "Immigration and Naturalization Service, Trial Attorneys Unit, [REDACTED]" Counsel does not indicate that the brief was sent to the AAO. Counsel also offers no evidence that the briefs were actually mailed as purported in the cover letter or ever received by the Vermont Service Center or the "Trial Attorneys Unit" in Boston, Massachusetts.

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.

As explained above, counsel to the petitioner purports that she submitted her brief to the Vermont Service Center and/or to the "Trial Attorneys Unit" in Boston, Massachusetts, on or about November 3, 2005. However, the regulations at 8 C.F.R. § 103.3(a)(2)(viii) and the instructions to Form I-290B require the

affected party to submit the brief or evidence directly to the AAO, not to the Vermont Service Center or any other federal office. Because the affected party did not follow the regulations or the instructions, the AAO was not in possession of the brief and therefore will not consider it on appeal. Moreover, given that counsel offers no independent, objective evidence that the brief was sent or received, the AAO will not consider the brief even if its submission to the Vermont Service Center or the "Trial Attorneys Unit" were excusable.

Given the absence of a brief or additional evidence which may be considered by the AAO, the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, and the appeal must be summarily dismissed for that reason.

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.