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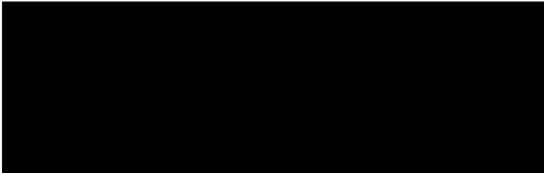


FILE: LIN 04 165 51722 Office: NEBRASKA SERVICE CENTER Date: JUN 20 2007

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

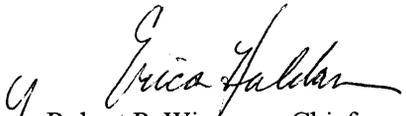
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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 nonimmigrant petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to employ the beneficiary as its general manager 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, an Alaska limited liability company engaged in retail sales of jewelry and crafts, claims to be the affiliate of [REDACTED], located in Humansdorp, South Africa. The director determined that the petitioner had failed to demonstrate that the beneficiary had been employed abroad in a capacity that was primarily managerial or executive in nature, as required under 8 C.F.R. § 214.2(l)(3)(ii).

On appeal, counsel for the petitioner indicated on Form I-290B that he would submit a brief and/or additional evidence to address the director's denial within thirty days. Although counsel submitted a brief statement on the Form I-290B, he failed to adequately address the director's conclusions. In this brief statement, counsel states "[t]he petitioner submits that the Service erred in [its] interpretation of the law respecting the meaning of "Managerial Capacity" under 8 C.F.R. § 214.2(l)(1)(ii)(B)." The director, however, provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel's general objection on the Form I-290B, without specifically identifying any errors on the part of the director, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On the Notice of Appeal received on July 21, 2004, counsel for the petitioner clearly indicates that he would send a brief with the necessary evidence to the AAO within thirty days. To date, however, there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal.¹ Counsel has not addressed the reasons stated for the denial and has not provided any additional evidence. Although counsel states that the denial was erroneous, he fails to specifically address the conclusions set forth in the director's decision, nor does he specifically identify an erroneous conclusion of law or fact made by the director in the decision rendered on June 21, 2004. Absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The filing by an attorney of an appeal that is summarily dismissed under this section may constitute frivolous behavior as defined in 8 C.F.R. § 292.3(a)(15).

¹ On May 9, 2007, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had 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.

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 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.