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File: SRC 05 142 51833 Office: TEXAS SERVICE CENTER Date: **MAR 06 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 of the Texas Service Center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner claims to be engaged in the hotel and resort industry. It seeks to employ the beneficiary as its group sales manager, and it has petitioned to classify the beneficiary 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 director denied the petition after determining that the beneficiary would not be employed in the United States in a primarily managerial or executive capacity.

The Form I-290B that was submitted for the record was signed by the beneficiary, not by an authorized representative of the petitioner. Citizenship and Immigration Services (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not a recognized party, the beneficiary is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Even if the appeal were properly filed, it would have been summarily dismissed. On appeal, the beneficiary indicated on Form I-290B that she would submit a brief and/or additional evidence to address the director's denial within 30 days. Although the beneficiary submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, the beneficiary states "USCIS did not apply case law correctly." The beneficiary's general objection on 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 prior to adjudication. 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).

On the Notice of Appeal received on January 18, 2006, the beneficiary clearly indicates that she would send a brief with the necessary evidence to the AAO within thirty days. According to 8 C.F.R. § 103.3(a)(2)(i), the petitioner "shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision," which in the case at hand would be no later than January 21, 2006. To date there is no indication or evidence that the beneficiary ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.<sup>1</sup> As stated above, absent a clear statement, brief and/or evidence to the contrary, the beneficiary does not identify, specifically, any erroneous conclusion of law or statement of fact. Hence, the appeal would have been summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v) in the event that it had been properly filed.

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<sup>1</sup> On January 4, 2006, the AAO sent a fax to [REDACTED] counsel of record in this matter. 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 beneficiary.

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.

The beneficiary was not authorized to file the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I). As a result, the appeal will be rejected. If the appeal had been properly filed, however, it would have been summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v) for the reasons set forth above.

**ORDER:** The appeal is rejected.