



U.S. Citizenship
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Services

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FILE: WAC 05 048 51277 Office: CALIFORNIA SERVICE CENTER Date: MAR 07 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: SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California 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 rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner states that it is engaged in the development, manufacturing, and sale of computer hardware and software. It seeks to employ the beneficiary temporarily in the United States as its chief executive officer as an L-1A nonimmigrant intracompany transferee pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8.C. § 1101(a)(15)(L). The director issued a nine-page decision which denied the petition for the following reasons:

- (1) The petitioner failed to show that it is a recognized legal entity distinct from its ownership such that it may sponsor intracompany transferees through a qualifying corporate relationship;
- (2) The petitioner failed to establish that a qualifying relationship existed between the U.S. entity and a foreign organization;
- (3) The beneficiary did not have one year of continuous full-time employment abroad within the three years preceding the filing of the petition; and
- (4) The petitioner failed to establish that the beneficiary would be employed in a 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.¹ 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).

In the alternative, the AAO would have been required to summarily dismiss the appeal had it been properly filed by the petitioner in this matter. *See* 8 C.F.R. § 103.3(a)(1)(v). On appeal, the beneficiary indicated on Form I-290B that "[t]he 'L' visa is needed for the operating and growth of the corporation in the United States." He also submits an undated letter of support in which he clearly identifies himself as the beneficiary in the present matter. The letter provides a general overview of the foreign entity and the growth potential of the U.S. entity, and includes broad statements regarding the beneficiary's claimed executive capacity and the foreign entity's status as a sole proprietorship. The beneficiary, however, fails to adequately address the director's conclusions. The beneficiary's general statements on appeal, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. The director performed

¹ Although the record indicates that the beneficiary is the petitioner's chief executive officer, there is no indication that the appeal is filed on behalf of the petitioner. The Form I-290B and supporting documentation are signed in his personal capacity, and the letter of support submitted on appeal is prepared on personal stationery, not company letterhead.

an extremely thorough analysis of all evidence submitted and cited specific examples of deficiencies in the evidence to support his decision. In addition, the director pointedly discussed the inconsistencies among the evidence with regard to the requirements of the regulations. The beneficiary's general comments, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence of record.

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 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. 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 the beneficiary has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the AAO would have been required to summarily dismiss the appeal had it been properly filed by the petitioner in this matter. *See* 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is rejected.