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U.S. Citizenship
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07

MAR 30 2007

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FILE: SRC 06 012 51026 Office: TEXAS SERVICE CENTER Date:

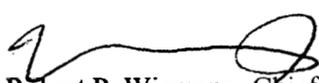
IN RE: Petitioner:
Beneficiary:

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)

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas 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 states that it is engaged in the import and export business. It seeks to extend the employment of the beneficiary as its executive manager pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(L). The director denied the petition based on the conclusion that the petitioner failed to establish that the beneficiary will be employed in a primarily managerial or executive capacity in the United States.

On appeal, the petitioner indicated on Form I-290B that it would submit a brief and/or additional evidence to address the director's denial within thirty days. Although the petitioner submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, the petitioner states "I am appealing this decision because I believe it has not been fair. The INS office has determine[d] this decision based on only a definition and did not even [look] at the documents attached concerning the capacity of the beneficiary. . . . Please check on this matter through the appeal."

The director, however, provided a detailed analysis and cited the deficiencies in the evidence in the course of the denial. Specifically, the director noted that the initial evidence was deemed insufficient, and that the petitioner's response to the request for evidence indicated that the petitioner employed only one other person in addition to the beneficiary. The director further noted that the description of duties provided in response to the director's request for additional information was consistent with the initial description that had previously been deemed insufficient. Finally, the director cited the applicable regulation and regulatory definitions pertaining to the requested classification, and concluded that the evidence of record failed to satisfy these requirements. The petitioner'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 May 30, 2006, the petitioner clearly indicates that it would send a brief with the necessary evidence to the AAO within thirty days. While the petitioner may request that it be granted additional time to submit an appeal, no such request was made in this case. See 8 C.F.R. § 103.3(a)(2)(vii). Even if additional time to submit a brief in support of the appeal had been requested and approved, to date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.¹ As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous

¹ On March 1, 2007, the AAO sent a fax to the petitioner. The fax advised the petitioner that no evidence or brief had been received in this matter and requested that the petitioner 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 the petitioner.

conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

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.

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 petitioner 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.