

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

87



FILE: EAC 03 165 50593 Office: VERMONT SERVICE CENTER Date: DEC 04 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)

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, Vermont Service Center, denied the petition for a nonimmigrant visa. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal based on counsel's failure to submit a brief or evidence in support of the appeal. The AAO subsequently granted the petitioner's motion to reopen and affirmed its previous decision to dismiss the appeal. The matter is now before the AAO again on appeal. The appeal will be rejected.

The petitioner filed this nonimmigrant petition seeking to extend the employment of its vice-president 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 in the State of New Jersey that claims to be a wholesaler and dealer of general merchandise. The petitioner claims that it is a subsidiary of [REDACTED], located in Ahmedabad, India. The beneficiary was initially granted L-1A classification in order to open a new office in the United States and the petitioner now seeks to extend the beneficiary's stay.

The director denied the petition on February 24, 2004, concluding that the beneficiary would not be employed by the petitioner in a managerial or executive capacity. The AAO dismissed the petitioner's appeal and affirmed its decision on a subsequent motion to reopen, in a decision dated May 17, 2007.

On June 14, 2007, the petitioner filed Form I-290B, Notice of Appeal or Motion. The petitioner indicated on Form I-290B that it is filing an appeal, and that a brief and/or additional evidence will be submitted within 90 days.

The petitioner's appeal must be rejected. The AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

It should be noted that the petitioner did have the option of filing a motion to reopen or a motion to reconsider the AAO's most recent decision pursuant to 8 C.F.R. § 103.5. The AAO notes for the record that the petitioner has filed only the Form I-290B stating that the petitioner is "being aggrieved by the decision to deny on facts on law," and has submitted no brief or documentary evidence. The petitioner's appeal does not meet the requirements of a motion. As noted above, the petitioner stated that additional evidence would be submitted in 90 days. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R. §§ 103.5(a)(2) and (3).

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

**ORDER:** The appeal is rejected.