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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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File: SRC 05 178 51515 Office: TEXAS SERVICE CENTER Date: JUL 06 2007

IN RE: Petitioner:
Beneficiary:



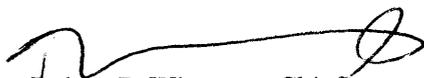
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF BENEFICIARY:



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 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 filed the instant nonimmigrant petition seeking to extend the employment of its 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, a Florida corporation, states that it is engaged in the sale of orthopedic girdles and underwear. It claims to be a subsidiary of Integrales Naturales Madre Tierra, located in Colombia. The petitioner has employed the beneficiary in L-1A status since 2002 and now seeks to extend her status for three additional years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary will be employed in a primarily managerial or executive capacity.

Counsel subsequently filed the instant appeal and indicated on Form I-290B, Notice of Appeal, that he represents the beneficiary. The Form G-28, Notice of Entry of Appearance as Attorney or Representative, submitted by counsel on appeal was signed by the beneficiary only. The beneficiary did not indicate that she was signing as an authorized representative of the petitioner, and the petitioner is not named on the Form G-28 as a represented party. Thus, the record shows that counsel represents the beneficiary, not the petitioner.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the appeal within 30 days after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

U.S. Citizenship and Immigration Services (USCIS) 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).

Similarly, only an authorized party may maintain an appeal. 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal—(A). *Appeal filed by person or entity not entitled to file it-- (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Accordingly, the appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

Furthermore, the AAO notes that even if the appeal had been properly filed, the appeal would be summarily dismissed. 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.

Counsel provided the following statement on Form I-290B, Notice of Appeal:

The Bureau of Citizenship and Immigration Services erred and abused its discretion as a matter of law in denying the L1 Visa category petition for the Petitioner and on behalf of the beneficiary.

The evidence submitted in this case clearly established that [the beneficiary] is performing in a managerial capacity since the beneficiary is managing other supervisors, professionals and managers.

Counsel indicated that he was submitting a separate brief and/or evidence with the Form I-290B; however, upon careful review of the record, the AAO finds that the appeal consisted of the Form I-290B and a Form G-28 executed by counsel and the beneficiary. No additional brief or evidence has been incorporated into the record.

Counsel's statement that the beneficiary meets the qualifications for an L-1A visa is insufficient to overcome the logical and well-founded conclusions reached by the director based on the evidence presented at the time of filing and in response to a request for additional evidence. 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)). Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Inasmuch as neither the beneficiary nor her representative has standing to file an appeal in this matter, the appeal must be rejected as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

ORDER: The appeal is rejected.