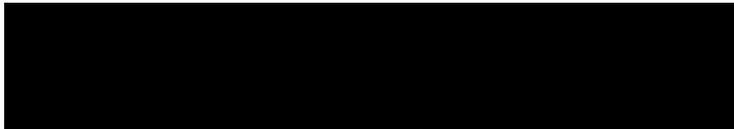


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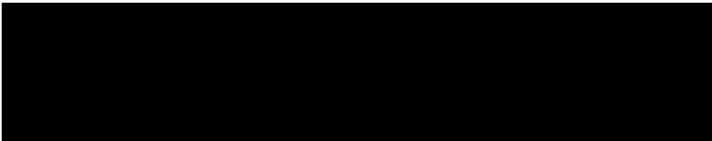
MAR 06 2007

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, 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 filed this nonimmigrant visa petition seeking to extend the employment of 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 petitioner is a corporation organized under the laws of the State of Florida and is allegedly engaged in the furniture business. The beneficiary was initially granted a one-year period of stay 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 concluding that the petitioner did not establish that (1) the beneficiary will be employed in the United States in a primarily managerial or executive capacity; or (2) the petitioner had been doing business during the previous year.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On December 1, 2006, the AAO sent a fax to counsel advising her that no evidence or brief had ever been received in this matter and requested that she submit a copy of the brief and/or additional evidence, if in fact such evidence or brief had been submitted. Counsel responded on December 8, 2006 by providing additional evidence and a copy of a letter/brief dated December 30, 2005. Counsel also included evidence that these materials were inappropriately sent to, and received by, the Texas Service Center on January 3, 2006. The letter/brief and additional materials were not sent to the AAO.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition.

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 explained above, counsel to the petitioner incorrectly submitted a letter/brief and additional evidence to the Texas Service Center on January 3, 2006. However, the regulations at 8 C.F.R. § 103.3(a)(2)(viii) and the instructions to Form I-290B require the affected party to submit the brief or evidence directly to the AAO, not to the Texas Service Center. Because the affected party did not follow the regulations or the instructions, the AAO was not in possession of the letter/brief and the additional materials and therefore will not consider the letter/brief or these materials on appeal.

Given the absence of a brief or additional evidence which will be considered by the AAO, the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, and the appeal must be summarily dismissed for that reason. Moreover, even if the brief and materials sent to the Texas Service Center on January 3, 2006 were being considered by the AAO, the petitioner has failed in those documents to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. While counsel attempts to explain why the petitioner's business failed to prosper during its first year in operation, she does not identify any errors made by the director in her decision.

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. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.