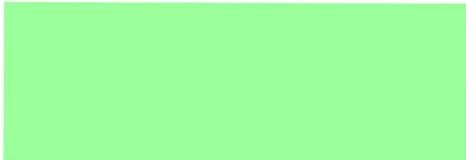


(b)(6)

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave. N.W., MS 2090
Washington, DC 20529-2090

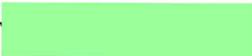


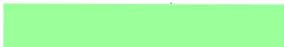
U.S. Citizenship
and Immigration
Services



Date: FEB 05 2013

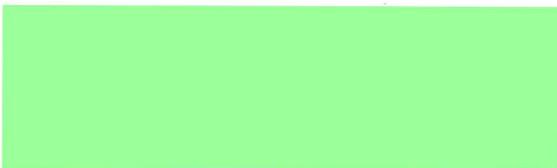
Office: CALIFORNIA SERVICE CENTER

FILE: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you

Ron Rosenberg
Acting 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 AAO will summarily dismiss the appeal.

The petitioner filed a nonimmigrant visa petition seeking to employ the beneficiary in the position of General Manager of Sales, APAC & Greater China, for one year 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 director denied the petition, concluding that the petitioner failed to establish a qualifying relationship with the foreign company, [REDACTED]

On appeal, counsel provides the following basis for appeal:

On February 23, 2012, your office issued a decision denying the above-referenced *Petition for Nonimmigrant Worker (L-1A)* ("Decision"). Pursuant to 8 C.F.R. § Section 103.3(a)(2), my client Certiport, Inc. hereby appeals the Decision. We respectfully request that your office, pursuant to 8 C.F.R. § Section 103.2(a)(2)(ii), review this appeal with its accompanying additional evidence and the evidence already in the record, conclude that favorable action is warranted in this case, treat this appeal as a motion to reopen or reconsider, and take favorable action to approve this petition. Such action is warranted in this case.

Without further elaboration, counsel provides additional documents on appeal including, *inter alia*, the following: (1) the beneficiary's resume; (2) [REDACTED] license agreement for office space with [REDACTED]

(3) Officer's Certificate by [REDACTED] Executive Vice President and CFO of the petitioner, attesting that the petitioner owns and operates a branch office in Malaysia; (4) organizational chart of [REDACTED] (5) Wire Request Forms initiated by the beneficiary for rent payments; (6) the beneficiary's cell phone invoices showing [REDACTED] as the payor; and (7) letter from [REDACTED]

To establish L-1 eligibility under section 101(a)(15)(L) of the Act, the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization. The petitioner must further establish that the beneficiary seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

The 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.

Upon review, the AAO agrees with the director's decision and will affirm the denial of the petition. A thorough review of the record reflects that the petitioner failed to establish a qualifying relationship with the foreign company, [REDACTED]. Although the petitioner claims that [REDACTED] is a branch office, the petitioner failed to submit probative evidence to support this claim, such as documentation from the government of Malaysia confirming [REDACTED] legal status as a branch office of a foreign corporation. The only documents the petitioner has submitted regarding [REDACTED] legal status are letters from the petitioner and counsel which, alone, are insufficient to meet the petitioner's burden of proof.

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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 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).

Moreover, the petitioner has not specifically identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. The sole basis for appeal articulated by the petitioner was to request the service center director to treat the appeal as a motion. As the petitioner has not specifically identified which particular conclusion(s) of law or statement(s) of fact it disagrees with, the AAO must summarily dismiss 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. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.