U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

B4

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 07 2005
WAC 94 247 50465

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

[redacted]

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, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the employment-based immigrant visa petition. Upon review, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and her reasons therefore, and ultimately revoked the approval of the petition on December 27, 2000. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a corporation organized in the State of California in August 1992. The petitioner claims to import and export general merchandise. It seeks to employ the beneficiary as its purchasing manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

The director initially approved the petition on November 9, 1994. On November 23, 1994 the beneficiary filed for an adjustment of status with the Los Angeles District Office. The Los Angeles District Office requested an overseas investigation to verify the authenticity of the beneficiary's managerial experience with the claimed parent company. On October 13, 2000, the director issued a notice of intent to revoke approval stating that the investigation had revealed that the beneficiary was no longer employed with the United States subsidiary and that the parent company no longer supported the beneficiary's permanent residence in the United States.

On December 27, 2000, the director issued her decision to revoke approval because no rebuttal had been received in response to the director's notice of intent to revoke.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, 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."

On the Form I-290B, Notice of Appeal, filed on January 16, 2001, counsel for the petitioner indicated that a brief and/or evidence would be sent to the AAO within 30 days. To date, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

Counsel states on the Form I-290B and in an attachment to the Form I-290B that: the petitioner never received the notice of intent to revoke and counsel of record did not receive a copy of the notice of intent to revoke. Counsel explained that the petitioner's prior attorney received a copy of the decision revoking approval and forwarded the revocation decision to the petitioner. Counsel notes that he now has a copy of the notice of intent to revoke and will respond to the notice of intent to revoke within 30 days. Counsel also asserts that the field investigator in China did not contact the president of the parent company and that no one in the parent company stated that the beneficiary had severed her employment relationship with the parent company.

Counsel's assertion that the field investigator did not contact the parent company is not supported by documentary evidence. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The 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).[1]

Inasmuch as counsel's statements on appeal do not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal; the regulations mandate the summary dismissal of 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. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.

[1] In addition, the AAO notes that the record contains the beneficiary's asylum application filed February 1999. In the asylum application, the beneficiary states that she had difficulties with the general manager of the parent company in 1995, who encouraged the parent company to stop doing business with the claimed subsidiary. The AAO further notes that the beneficiary's asylum application was granted September 13, 1999.