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

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FILE:



Office: VERMONT SERVICE CENTER

Date: JUL 05 2007

EAC 03 029 52410

IN RE:

Petitioner:



Beneficiary:

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:



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 preference visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner was established in 2000 and claims to be engaged in the business of importing and exporting shrimp and fish. It seeks to employ the beneficiary as its president. 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 denied the petition based on the determination that the petitioner failed to establish that the beneficiary would be employed in a managerial or executive capacity.

On appeal, counsel asserts that the director "failed to take into account issues caused by [the] first unjustified denial." No further explanation was provided; nor was any mention made of the petitioner's failure to respond to the request for additional evidence (RFE) issued on January 10, 2006.¹ However, counsel indicated that additional information would be submitted within 30 days in support of the appeal. On March 6, 2007, the AAO reviewed the record of proceeding and found that no additional evidence or information had been submitted since the appeal was filed on June 26, 2006. Accordingly, the AAO faxed the petitioner a notice allowing an additional five days in which to provide a brief and/or any information *if* the petitioner had previously submitted such information. The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted. Rather, this was merely an attempt to allow the petitioner to provide information that may have been submitted but never matched with the record of proceeding. To date, however, the petitioner has not responded to the AAO's facsimile. Accordingly, the record will be considered complete as currently constituted.

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.

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. Despite the broad statement made by counsel on appeal, no further explanation has been provided identifying specifically an erroneous conclusion of law or a statement of fact in this proceeding. As such, the petitioner has not sustained its burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.

¹ The record shows that the director issued a notice on January 10, 2006 dismissing the petitioner's motion to reopen and reconsider. However, pursuant to the provisions specified in 8 C.F.R. § 103.5(a)(5)(ii), the director reopened the matter on service motion based on the determination that the request for evidence (RFE), which prefaced the initial denial of the petitioner's Form I-140, was not sent to the petitioner's attorney. Thereby, the director issued a new RFE informing counsel of the various deficiencies which, if not rectified, would lead to an adverse decision.