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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



B4

DATE: OFFICE: TEXAS SERVICE CENTER
AUG 09 2012

FILE: 

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)

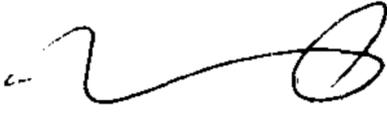
ON BEHALF OF PETITIONER: SELF-REPRESENTED

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.

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 with the field office or service center that originally decided your case by filing a 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,


Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner is a Delaware corporation that 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 Form I-140 (Immigrant Petition for Alien Worker) after the petitioner failed to establish that the beneficiary would be employed in a qualifying managerial or executive capacity. *See* 8 C.F.R. § 204.5(j)(2) (defining managerial and executive capacity).

On June 28, 2010, the petitioner filed an appeal seeking review of the Form I-485 (Application to Register Permanent Residence or Adjust Status). Specifically, the petitioner objected to the director's failure to convert the principal alien to that of derivative beneficiary. The petitioner stated that the beneficiary's request was based on the approvals of the beneficiary's spouse's Form I-140 and Form I-485, where the beneficiary was listed as a derivative beneficiary. The petitioner's appellate brief and supporting evidence focus entirely on the director's failure to act upon the beneficiary's request to convert the basis of the beneficiary's Form I-485 from principal to that of a derivative beneficiary. The petitioner neither addressed nor acknowledged the basis for the director's denial of the petitioner's Form I-140.

In light of the fact that the petitioner's appeal addresses only the beneficiary's Form I-485 rather than the denial of the petitioner's Form I-140, the AAO points out that it has no jurisdiction to consider matters concerning the beneficiary's adjustment of status application. No right to appeal arises from the denial of an application to adjust status. 8 C.F.R. § 245.2(a)(5). The matter discussed in the petitioner's appeal does not fall within the AAO's jurisdiction.

Additionally, 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. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.