

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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

**PUBLIC COPY**



B4.

DATE: **MAR 20 2012**

OFFICE: TEXAS SERVICE CENTER

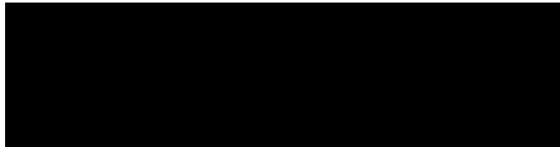
FILE: 

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:



**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. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. 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 Texas corporation that seeks to employ the beneficiary as its director of operations. 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.

On May 4, 2009, the director denied the immigrant petition determining that the petitioner failed to establish that the beneficiary's proposed employment with the U.S. entity would be within a qualifying managerial or executive capacity.

On June 3, 2009, counsel for the petitioner submitted the Form I-290B to appeal the director's denial. The petitioner marked the box at part two of the Form I-290B to indicate that the brief and/or additional evidence is attached with the current form.

On the Form I-290B, counsel for the petitioner states the following:

Your office denied our client's petition alleging that the Beneficiary would not be employed in a managerial capacity for the United States entity. Please review the letter from the Petitioner and please review 8 CFR section 204.5(j)(2). The definitions outlined in the aforementioned section would cover the duties and responsibilities of the Beneficiary. As the evidence indicated, the Beneficiary would be formulating policies; managing daily operations; making decisions for planning, researching and developing; supervising professionals (office manager, accountant); and making personnel decisions. Pursuant to 8 CFR 204.5(j)(2), the Beneficiary's duties meet the definition of Managerial Capacity as the Beneficiary will manage the U.S. location, supervise professionals, has authority over personnel decisions, and exercise direction over the day to day operations. Based on the evidence, it is clear that the Beneficiary would be employed in a managerial capacity for the United States location. Accordingly, we respectfully and kindly urge that the I-140 petition be approved.

The petitioner also submitted a letter reiterating the job duties for the beneficiary as presented with the initial petition. The petitioner also states that, "I need him desperately" and that "it would be devastating for future plans to grow and expand without [the beneficiary] directing our United States location especially since I will be retiring soon."

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. 8 C.F.R. § 103.3(a)(1)(v).

In regards to the director's conclusion that the petitioner failed to submit sufficient evidence to show the beneficiary's eligibility for the immigrant petition, counsel for the petitioner fails to identify any erroneous conclusion of law or statement of fact for the appeal. The petitioner claimed that the immigrant visa petition should be granted but did not provide any evidence to corroborate that claim. On appeal, counsel only requests that AAO review the regulations and reiterates the definition of managerial capacity. Counsel does not provide corroborating evidence to establish that the beneficiary will in fact be employed in a managerial capacity. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. See *INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

Counsel failed to specify any legal or factual errors made by the director in issuing the adverse decision. While it is clear that counsel disagrees with the director's decision and maintains that the beneficiary warrants the immigrant classification of a multinational manager or executive, none of the assertions on the Form I-290B directly address the main issue in contention, i.e., that the beneficiary's position in the United States as a Director of Operations cannot be deemed as employment in a qualifying managerial or executive position. Rather, counsel focuses primarily on restating the procedural history of the case, restating the beneficiary's duties, and paraphrasing the relevant statutory and regulatory provisions.

As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings rests solely 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.