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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: JUN 2 8 2013 OFFICE: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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:

[redacted]

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, Texas Service Center, denied the preference visa petition. The petitioner appealed this denial to the Administrative Appeals Office (AAO). On December 12, 2011, the AAO dismissed the appeal. The petitioner subsequently filed a motion to reopen and reconsider the AAO's dismissal of the appeal. On April 1, 2013, the AAO dismissed the motion. The matter is now before the AAO on a second motion.[1] The motion will be dismissed.

The petitioner is a Maryland corporation engaged in the business of international trade. 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.

On November 19, 2009, the director denied the petition concluding that the petitioner failed to establish that the beneficiary would be employed in a managerial or executive capacity. On December 22, 2009, the petitioner appealed the denial disputing the director's findings. On December 12, 2011, the AAO dismissed the appeal, rejecting prior counsel's reliance on the petitioner's previously approved nonimmigrant petition. The AAO provided a thorough analysis of the job description offered by prior counsel and found that counsel's statements lacked credible and detailed information about the beneficiary's actual daily job duties. In addition, the petitioner failed to provide sufficient evidence to establish that: (1) the beneficiary was employed abroad in a qualifying managerial or executive capacity; and (2) the petitioner has a qualifying relationship with the beneficiary's prior employer abroad. On January 13, 2012, the petitioner filed a motion to reopen and a motion to reconsider the AAO's decision. On April 1, 2013, the AAO dismissed the motion as neither counsel nor the petitioner cited any legal precedent or applicable law that would indicate an error on the part of the AAO in dismissing the petitioner's appeal.

On April 30, 2013, the petitioner submitted the Form I-290B, Notice of Appeal or Motion. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to the AAO within 30 days. The record indicates that the petitioner did not file a brief or supplemental evidence within the allowed timeframe. The record is complete as presently constituted.

The regulation at 8 C.F.R. § 103.5(a)(2) states:

> A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

The regulation at 8 C.F.R. § 103.5(a)(3) states:

> A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or [U.S. Citizenship and Immigration Services (USCIS)] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

[1] Counsel for the petitioner marked the box at part two of the Form I-290B, Notice of Appeal or Motion, to indicate that the petitioner is filing an appeal.

The regulation at 8 C.F.R. § 103.5(a)(4) states, in pertinent part: "A motion that does not meet applicable requirements shall be dismissed."

The instant motion consists solely of a statement on the Form I-290B: "The decision is contrary to the facts of this case and contrary to the applicable law." There is no reference made to the findings in the AAO's decision and the specific deficiencies remarked upon therein, no new facts provided to support a motion to reopen, and no reasons stated for reconsideration. Although counsel marked the box indicating that a brief and/or additional evidence would be submitted within 30 days, the AAO has not received any supplemental documentation. Accordingly, the motion will be dismissed for failing to meet the applicable requirements.

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 met that burden. Accordingly, the motion will be dismissed, the proceedings will not be reopened or reconsidered, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion is dismissed.