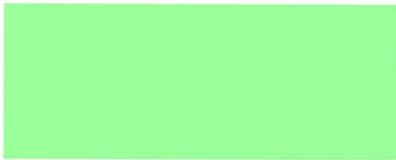


(b)(6)

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



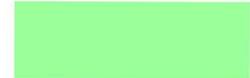
U.S. Citizenship
and Immigration
Services



DATE: OCT 28 2013

OFFICE: TEXAS SERVICE CENTER

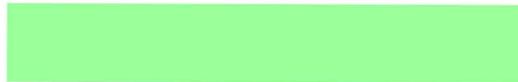
FILE:



IN RE:

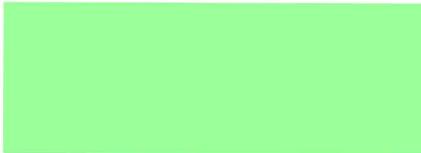
Petitioner:

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg

Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition. The petitioner subsequently filed a motion to reconsider, which the director dismissed. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a Texas limited liability company that seeks to employ the beneficiary as its general 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 denied the petition, concluding that the petitioner failed to provide reliable and consistent evidence establishing: (1) that the petitioner has a qualifying relationship with the beneficiary's former employer abroad; (2) that, during his employment abroad, the beneficiary was employed in a qualifying managerial or executive capacity; (3) that the beneficiary's proposed employment with the U.S. petitioner would be in a qualifying managerial or executive capacity; (4) that the petitioner had been doing business for one full year prior to filing the instant petition; and (5) that the petitioner had the ability to pay the beneficiary's proffered wage as of the date the petition was filed. *See generally* 8 C.F.R. § 204.5(j).

In support of the petitioner's motion to reconsider, counsel for the petitioner submitted a brief attempting to address and overcome the five adverse findings that were listed as grounds for the denial of the petition.

In a decision dated February 1, 2013 the director reviewed counsel's brief and determined that the petitioner failed to meet the provisions of a motion to reconsider, which require the petitioner to state the reasons for reconsideration, support the motion with pertinent law or precedent decisions, and establish that the prior decision that the petitioner seeks to reconsider was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3). The director cited case law, which established that a motion to reconsider challenges the legal analysis of a decision and does not permit the moving party to introduce new evidence. *William v. INS*, 217 F.3d 362 (5th Cir. 2000). Accordingly, the director declined to consider the petitioner's submission of any new evidence to support the motion.

The director also addressed counsel's reference to one unpublished AAO decision and one district court decision, which counsel cited in an effort to establish that the director erroneously relied on the petitioner's staff size to deny the petition. The director observed, however, that he did not solely rely on the petitioner's staff size, but rather considered the job description that the petitioner provided in response to the notice of intent to deny. The director provided a comprehensive analysis of the percentage breakdown which explained how the beneficiary distributed and would distribute his time abroad and in the United States, respectively, among the various job duties assigned to him in his respective positions. The director concluded that the petitioner failed to establish that the prior decision was erroneous and thus dismissed the petitioner's motion.

Although counsel submitted a properly executed Form I-290B Notice of Appeal indicating that the director's decision was being appealed, he did not dispute or address any of the director's numerous adverse findings. Rather, he asked that the previously submitted evidence be reevaluated and indicated that a brief and/or

additional information would be submitted within 30 days in support of the appeal. The record reflects that the petitioner did not file a brief or supplemental evidence within the allowed timeframe. 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, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or statement of fact as a basis for the appeal, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.