

(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

[Redacted]

DATE: FEB 26 2015 OFFICE: NEBRASKA SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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 (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 us.**

Thank you,


7 Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center denied the preference visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will summarily dismiss the appeal.

The petitioner filed the Immigrant Petition for Alien Worker (Form I-140) 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 petitioner states on the Form I-140 that is engaged in the development and sales of software and metadata for digital media. It seeks to employ the beneficiary as a quality assurance manager. The record indicates that the beneficiary was previously employed by the petitioner's German subsidiary in the position of quality assurance team lead.

On June 7, 2014, the director denied the petition determining that the petitioner failed to establish: (1) that it will employ the beneficiary in a qualifying managerial or executive capacity; and (2) that the beneficiary was employed abroad in a qualifying managerial or executive capacity.

The petitioner subsequently filed an appeal on July 9, 2014. The petitioner indicated at Part 3 of the Form I-290B, Notice of Appeal or Motion, that a "brief and/or additional evidence will be submitted to the AAO within 30 calendar days of filing the appeal." At Part 4 of the Form I-290B, the person filing the appeal is instructed as follows: "On a separate sheet of paper, you must provide a statement regarding the basis for the appeal or motion." If filing an appeal, the petitioner is instructed to: "Provide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed." The record indicates that the petitioner did not submit such a statement at the time of filing the appeal, nor did it submit a brief or additional evidence subsequent to filing the appeal.

The regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Upon review, the petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. As noted, the petitioner's appeal was not accompanied by the required statement, nor did the petitioner supplement the record with a brief or additional evidence. Therefore, the appeal will be summarily dismissed.

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. The petitioner has not met this burden.

ORDER: The appeal is dismissed.