

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

PUBLIC COPY



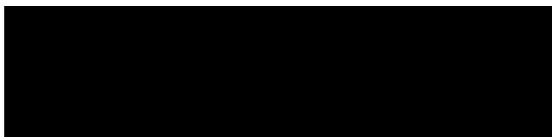
U.S. Citizenship
and Immigration
Services

D 7



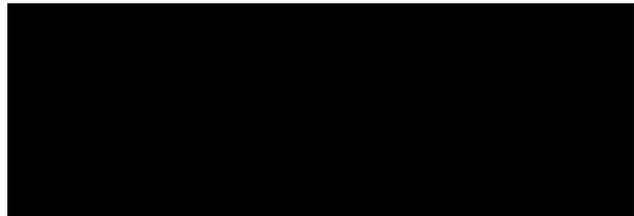
FILE: WAC 03 154 50621 Office: CALIFORNIA SERVICE CENTER Date: JUN 06 2005

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



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.


Robert P. Wiemann, Director
Administrative Appeals Office

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

According to the documentary evidence contained in the record, the petitioner was incorporated in 1986 and claims to be a manufacturer and seller of commercial refrigeration. The petitioner claims to be an affiliate of [REDACTED], located in [REDACTED]. The petitioner seeks to employ the beneficiary in the United States as a refrigeration mechanic. The director determined that the evidence was insufficient to establish that a qualifying relationship existed between the U.S. and foreign entities, that the beneficiary possesses specialized knowledge, and that the proffered position requires an individual with specialized knowledge.

On appeal, counsel indicated that she would submit a brief and/or evidence to the AAO within 60 days. The notice of appeal is dated December 5, 2003. To date, the AAO has not received any additional evidence. Therefore, the record is considered complete.

Counsel asserts in the notice of appeal that the director made several errors of fact and law concerning the beneficiary's qualifications as a specialized knowledge candidate and the existence of an affiliate relationship between the U.S. and foreign entities.

Counsel's error claim is not persuasive. In the instant case the requirements for the L-1 classification are found in Section 101(a)(15)(L) of the Immigration and Nationality Act which states in part:

... an alien who, within three years preceding the time of his application for admission into the United States, has been employed continuously for a year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge

...

Counsel fails to specifically address the director's objections relating to the lack of evidence to establish that the beneficiary would be employed in the United States primarily in a specialized knowledge capacity or that an affiliate relationship exists between the U.S. and foreign entities.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states in part:

Summary dismissal. 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.

As counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought 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.