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U.S. Citizenship
and Immigration
Services

D7



FILE: EAC 02 033 54495 Office: VERMONT SERVICE CENTER Date: JUN 06 2005

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

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:

SELF-REPRESENTED

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 initially granted by the Director, Vermont 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 2000 and claims to be a retail outlet business. The petitioner claims that it is a subsidiary of [REDACTED] located in Rawalpindi, Pakistan. The petitioner seeks to extend its authority to employ the beneficiary in the United States as a director. The director determined that there had not been sufficient evidence submitted to establish that the beneficiary had been or would be employed primarily in a managerial or executive capacity. The director noted that the petitioner produced insufficient evidence to show that the U.S. entity employed anyone other than the beneficiary. The director also noted that the organization was not a sufficient size to support a managerial or executive position.

On appeal, the petitioner indicated that he would not be submitting a separate brief or evidence. The petitioner states that the director erred in his findings that there were no other employees, besides the beneficiary, employed by the U.S. entity. On appeal, the petitioner submits a letter written by an accountant, confirming the employment of [REDACTED] by the U.S. entity since January 1, 2002. The petitioner also submits copies of its cancelled checks made out to [REDACTED]. All the cancelled checks were dated subsequent to the filing of the petition in the instant matter. It is noted that the petition was filed on October 30, 2001.

Furthermore, the petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. The petitioner failed to submit the requested evidence and now submits it on appeal. However, the AAO will not consider this evidence for any purpose. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988). The appeal will be adjudicated based on the record of proceeding before the director.

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 the petitioner 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.