

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

D 7

FILE: SRC-04-118-50610 Office: TEXAS SERVICE CENTER Date: JUN 15 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner states that it operates as a transportation company. It seeks to employ the beneficiary temporarily in the United States as its chief executive officer in order to open a new office. The director denied the petition based on the conclusion that the petitioner failed to establish that it is licensed to operate its proposed business and that it has secured sufficient premises to house the new office.

On the Form I-290B appeal, the petitioner references an attached letter. In the brief letter, the petitioner confirms that it did not have a lease for premises or appropriate licenses as of the date of filing the petition. The petitioner does not assert that the director's analysis was based on an erroneous conclusion of law or statement of fact.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The regulation at 8 C.F.R. § 214.2(l)(3)(v)(A) requires the petitioner to submit evidence to establish that "[s]ufficient physical premises to house the new office have been secured." As found by the director and confirmed by the petitioner on appeal, the petitioner only had a post office box at the time of filing the petition. The petitioner did not secure a lease for sufficient physical premises until May 1, 2004, 43 days after the date of filing. The petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978).

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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must 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 summarily dismissed.