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U.S. Citizenship
and Immigration
Services

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DA

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: MAY 23 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:



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, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner, [REDACTED] claims to be a subsidiary [REDACTED] located in Argentina. The petitioner plans to operate a printing and graphic arts business and was incorporated on September 12, 2001. The petitioner seeks to hire the beneficiary as a new employee to open its U.S. office. Accordingly, on April 23, 2002, the U.S. entity petitioned Citizenship and Immigration Services (CIS) to classify the beneficiary as a nonimmigrant intracompany transferee (L-1A) pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), as an executive or manager for one year. The petitioner endeavors to employ the beneficiary's services as the U.S. entity's general manager.

On April 25, 2003, the director denied the petition. The director determined that the petitioner failed to establish the following: 1) the new office will support an executive or managerial position within one year of approval; 2) the foreign entity has been doing business abroad; and, 3) the beneficiary has been and will be employed in a primarily executive or managerial position.

On May 27, 2003, the petitioner appealed the director's decision. On appeal, counsel simply states: "It is the prospective employer's belief that further clarification of the documentary evidence under the law, supplemented by additional verification, will demonstrate that sufficient legal and factual grounds exist to approve the I-129." Although counsel indicates on the Form I-290B that a brief would be submitted within 30 days, counsel did not indicate why the brief would be submitted late or otherwise provide good cause for the requested extension. As of this date, the record does not contain a supplemental appellate brief. Regardless, pursuant to 8 C.F.R. § 103.3(a)(2)(vii), counsel's request for additional time to submit a brief is denied as a matter of discretion for failure to show cause. Therefore, the record will be considered complete.

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 regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part, that an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as counsel failed to identify 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. Here, the petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.