



U.S. Citizenship  
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FILE: SRC-03-258-51279 Office: TEXAS SERVICE CENTER Date: JUN 01 2006

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, Chief  
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 is a publishing business opening a new office. It seeks authorization to employ the beneficiary temporarily in the United States as its manager. The director denied the petition because the petitioner had not responded to the Request for Evidence, there was evidence that the beneficiary was employed in the United States without authorization, and the petitioner had not established the following factors: 1) that the petitioner had secured a premises sufficient for housing the new business; or 2) that a qualifying relationship exists between the U.S. and foreign entities.

On appeal, counsel requested an additional 30 days in which to submit a brief addressing the director's denial. Counsel submitted "supporting documents" 10 days past the extension deadline requested on the I-290B, but failed to submit a brief. Absent a brief the counsel has failed to address the director's conclusions.

The record shows a number of inconsistencies, violations of the Immigration and Nationality Act and inappropriate representations by counsel. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In the instant case, counsel for the petitioner fails to acknowledge or attempt to resolve the inconsistencies contained in the record or correct the inappropriate representations. Nor has the petitioner specifically identified an erroneous fact or conclusion of law by the director.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

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.

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. As stated, counsel did not submit a brief and did not specifically identify an erroneous conclusion of law or statement of fact for the appeal. Thus, the petitioner has not sustained its burden and the appeal will be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.