



U.S. Citizenship  
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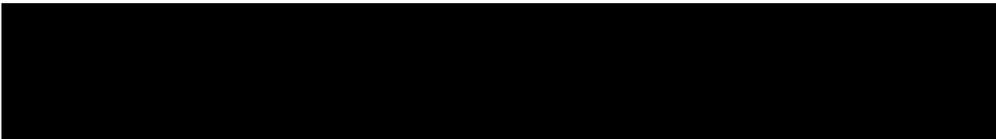
File: WAC 04 097 50588 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



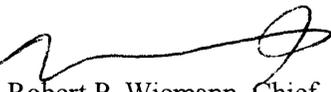
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

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, California Service Center, denied the petition for a nonimmigrant visa, and the Administrative Appeals Office (AAO) dismissed the petitioner's subsequent appeal. The matter is before the AAO on motion. The motion will be dismissed.

The petitioner filed this nonimmigrant petition seeking to extend its authorization to employ its president as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a California corporation that claims to be engaged in custom furniture manufacturing. The petitioner claims that it is a subsidiary of Croquis Corporation, located in Aintoura, Lebanon. The beneficiary was initially granted a one-year period in L-1A status in order to open a new office in the United States and was subsequently granted a two-year extension of stay. The petitioner seeks to extend the beneficiary's status for an additional two-year period.

The director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity. The AAO affirmed the director's decision and dismissed the petitioner's appeal in a decision dated January 24, 2006. The AAO also determined that the record contained insufficient evidence to establish the existence of a qualifying relationship between the petitioner and the foreign entity.

Counsel for the petitioner filed the instant motion on February 14, 2006. In a letter dated February 13, 2006, counsel states: "As the new attorney of record, it will be appreciated if the undersigned is provided up to and including April 1, 2006 in which to file his brief in support of this Motion. This additional time is necessary in order that the parties' file maybe [sic] secured and reviewed from prior counsel." As of this date, no brief or additional evidence has been incorporated into the record of proceeding. Accordingly, the record will be considered complete.

The AAO notes that, although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) allows a petitioner additional time to submit a brief or evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R. §§ 103.5(a)(2) and (3). Accordingly, counsel's request for additional time in which to submit a brief and/or evidence is denied.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the beneficiary's application for admission into the United States. In addition, 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.

The regulation at 8 C.F.R. § 103.5(a)(2) states, in pertinent part, that a motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

The regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The regulation at 8 C.F.R. § 103.5(a)(4) states, in pertinent part, that a motion that does not meet applicable requirements shall be dismissed.

In the instant case, the petitioner's motion, as filed on February 14, 2006, does not contain any new facts and is unsupported by any pertinent precedent decisions to establish that the prior decisions were based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. Therefore, the motion will be dismissed in accordance with 8 C.F.R. § 103.5(a)(4).

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. Here, the petitioner has not sustained that burden.

**ORDER:** The motion is dismissed.