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U.S. Citizenship  
and Immigration  
Services

B7

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File: SRC 02 143 50965 Office: TEXAS SERVICE CENTER Date: MAY 03 2007

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)

IN 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 on October 16, 2002 and dismissed a subsequently filed motion to reopen/reconsider on January 2, 2003. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant visa petition seeking to employ the beneficiary as its executive sales director 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 corporation organized under the laws of the State of Florida and is allegedly in the sports products business.

The director denied the petition concluding that the petitioner did not establish that the beneficiary will be employed primarily in an executive or managerial position.

The petitioner subsequently filed a motion to reopen/reconsider. The director dismissed the motion. The petitioner filed an appeal to the AAO for review. On appeal, counsel to the petitioner asserts the following in the Form I-290B: "District Director erred in its decision. Beneficiary presented evidence of the duties performed. Beneficiary presented evidence describing the staffing of the business operation." Counsel further indicated that she would be submitting a brief and/or additional evidence within 30 days. As of the date of this decision, no brief or additional evidence has been received, and the record will be considered complete.<sup>1</sup>

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.

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. While counsel asserts generally in the Form I-290B that the director erred, no specific errors were identified. Moreover, while counsel asserts that evidence was presented concerning the beneficiary's duties and the business operation's staffing, the director did not deny the petition or dismiss the motion because of a failure to submit this evidence. Rather, the

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<sup>1</sup>On March 5, 2007, the AAO sent a fax to counsel requesting that she submit a brief and/or additional evidence, if these materials had previously been submitted, within five business days along with evidence of the date they were originally filed with Citizenship and Immigration Services. As of the date of this decision, counsel has not responded to this request.

director denied the petition and dismissed the motion because the evidence submitted failed to establish that the beneficiary will be employed primarily in an executive or managerial position. In view of the above, the decision indicates that the director considered the evidence, and counsel's assertions will not be interpreted as identifying a specific error 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. The petitioner has not met this burden.

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