

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

b7



FILE: EAC 07 262 51970 OFFICE: VERMONT SERVICE CENTER Date: OCT 02 2008

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, Chief
Administrative Appeals Office

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

The petitioner filed this nonimmigrant petition seeking to employ the beneficiary in the position of president to continue the beneficiary's employment in the United States 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 director denied the petition based on the determination that the petitioner failed to establish that the beneficiary's proposed position in the United States would be within a qualifying managerial or executive capacity.

On appeal, counsel for the petitioner stated that a brief and/or additional information would be submitted within 30 days in support of the appeal. On September 3, 2008, the AAO reviewed the record of proceeding and found that no additional evidence or information had been submitted since the appeal was filed on April 21, 2008. Accordingly, the AAO faxed the petitioner a notice allowing an additional five days in which to provide a brief and/or any information *if* the petitioner had previously submitted such information. The AAO clearly stated that this was not meant to allow the petitioner additional time in which to provide new information that had not been previously submitted. Rather, this was merely an attempt to allow the petitioner to provide information that may have been submitted and gotten detached from the record of proceeding. To date, however, counsel has not responded to the AAO's facsimile. Accordingly, the record will be considered complete as currently constituted.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, 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. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.