

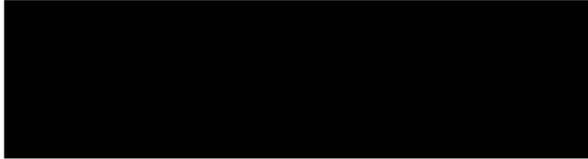
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
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FILE: WAC 08 003 51195 Office: CALIFORNIA SERVICE CENTER Date: **OCT 29 2008**

IN RE: Petitioner:
Beneficiary:



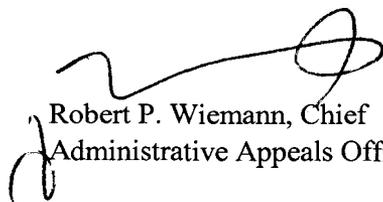
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner filed this nonimmigrant petition seeking to extend the beneficiary's employment as an L-1B nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The beneficiary was previously granted L-1B classification for a period of two and one-half years, and the petitioner now seeks to employ the beneficiary in the position of restaurant manager/senior trainer for a two-year period.

The director denied the petition on May 8, 2008 based on the petitioner's failure to submit all of the required initial evidence, and the petitioner's failure to fully respond to the director's request for evidence issued on December 27, 2007. The director found that the record contained insufficient evidence to establish that the beneficiary would be employed in a specialized knowledge capacity, and no evidence or information with respect to the petitioner's qualifying relationship with a foreign entity.

The beneficiary filed the instant appeal on May 27, 2008, and indicated on the Form I-290B, Notice of Appeal or Motion, the following: "The reason for the appeal is because all the evidences were not submitted. I will attached [sic] all the documentation requested within 30 days." As of the date of this decision, do additional evidence has been incorporated into the record of proceeding, and the appeal will be considered complete.

U.S. Citizenship and Immigration Services (USCIS) regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. The meaning of affected party does not include the beneficiary of a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). The record does not reflect that the beneficiary is an officer or authorized signatory of the petitioning company.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that an appeal filed by a person or entity not entitled to file it is improperly filed and must be rejected. Accordingly, the appeal will be rejected.

The AAO notes for the record that even if the appeal had been properly filed, it would be summarily dismissed.

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.

Here, the beneficiary simply stated that he would submit evidence that was previously requested and not provided. He did not identify an erroneous conclusion of law or statement of fact for the appeal, and he has not submitted any additional evidence as of this date.

Finally, even if the petitioner had submitted the required evidence on appeal, the AAO would not consider it. The regulation states that the petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. See 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); see also *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.*

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, that burden has not been met.

ORDER: The appeal is rejected.