

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
U.S. Citizenship
and Immigration
Services



PUBLIC COPY



17

DATE: **NOV 14 2011** Office: CALIFORNIA SERVICE CENTER FILE:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner, a Delaware corporation, claims to be engaged in engineering and manufacturing of alternative fuel systems. The petitioner states that it is an affiliate of the beneficiary's foreign employer, [REDACTED], located in Canada. Accordingly, the United States entity petitioned United States Citizenship and Immigration Services (USCIS) to classify the beneficiary as a nonimmigrant intracompany transferee (L-1A) 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 seeks to employ the beneficiary as its chief executive officer.

The director denied the petition on October 16, 2009, concluding that the record contains insufficient evidence to demonstrate that the beneficiary will be employed in a primarily executive or managerial capacity by the U.S. company. On November 18, 2009, counsel for the petitioner submitted the Form I-290B to appeal the denial of the underlying petition. The petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or evidence would be sent within 30 days. The appeal brief was never received by the AAO, thus, the AAO deems the record complete and ready for adjudication. 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. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, counsel for the petitioner contends that the beneficiary is engaged in executive duties and has sufficient staff to handle the day-to-day tasks. Counsel also states that the company has a "salesman, [REDACTED], and the company has engineers and technicians to handle the design, production and installation of the alternative fuel systems." Counsel states that "these issues will be covered in detail in our brief within 30 days." As noted above, the AAO never received a brief or supporting documentation for the appeal.

In regard to the director's finding that the petitioner failed to submit sufficient evidence to show that the beneficiary will be employed in a primarily executive or managerial capacity, the petitioner fails to identify any erroneous conclusion of law or statement of fact for the appeal. On the Form I-290B, counsel states that the beneficiary is in an executive capacity and the petitioner has sufficient employees to handle the day-to-day tasks but fails to provide any supporting documentation to corroborate this claim and overcome the director's concerns. As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed. The petition is denied.