



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

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DATE: OCT 20 2011 Office: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiaries: [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:

[REDACTED]

**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 North Carolina corporation, claims that it provides services in the travel and hospitality industry and the cleaning services industry. The petitioner states that it is a subsidiary of [REDACTED] located in Ecuador. Accordingly, the United States entity petitioned U. S. 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 was initially granted L-1A status and now seeks to change the status to L-1B classification to fill the position of President for a three-year period.

The director denied the petition on June 9, 2009, concluding that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge.

On July 7, 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, the counsel for the petitioner states the following:

Here, the Petitioner submitted documentary evidence to establish that the Beneficiary possessed specialized knowledge about the Petitioner's management processes and procedures as well as the products and services provided by the Petitioner. The Petitioner argues that the evidence established that the Beneficiary was eligible for L-1B classification.

In its decision of 07/09/2009 the Service denied the petition stating that "the record does not contain any evidence to establish that the beneficiary possesses any specialized knowledge obtained from the foreign concern to function as the President of the United States business." This is untrue. As stated above, the Petitioner submitted documentary evidence from the foreign concern to show that the Beneficiary did in fact possess the required specialized knowledge.

The Service has failed to address any of the evidence submitted by the Petitioner, Instead, the Service, in denying the petition, has arbitrarily concluded that no evidence was submitted. This action is not only arbitrary and capricious but also going against USCIS policy and the settled rule that all evidence must be duly

considered by the USCIS in adjudicating a benefit. Here, that did not take place. Accordingly, the petitioner wishes to challenge the USCIS decision and have the matter decided on the merits. The I-290B is timely submitted.

In regard to the director's conclusions that the petitioner failed to establish that the beneficiary possesses specialized knowledge or that he has been or will be employed in a capacity involving specialized knowledge, the petitioner failed to submit sufficient evidence to show the beneficiary possesses specialized knowledge and the position requires a person with specialized knowledge. The petitioner fails to identify any erroneous conclusion of law or statement of fact for the appeal. Instead, the petitioner claims that sufficient evidence was presented and does not overcome the director's concerns. In addition, the petitioner claimed that the director stated no evidence was submitted which is not correct as the director noted that the petitioner failed to submit sufficient evidence, not that the petitioner submitted no evidence. 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.