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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

D7

[REDACTED]

DATE: APR 27 2012 OFFICE: CALIFORNIA SERVICE CENTER [REDACTED]

IN RE: [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.

Thank you,

Perry Rhew
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 regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) states the following:

If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.

In the instant matter, [REDACTED] filed an appeal as counsel on behalf of the beneficiary subsequent to the director's adverse decision with regard to the petitioner's Form I-129. The Form G-28 that was executed by [REDACTED] shows only that this individual is authorized to undertake representation on the beneficiary's behalf. The petitioner did not provide a Form G-28 to show that [REDACTED] is similarly authorized to undertake representation on behalf of the petitioning entity. The requirement for the submission of a Form G-28 is expressly stated both in the regulations and in the instructions to Form I-290B, Notice of Appeal or Motion. Although [REDACTED] submitted a Form G-28, such representation applied only to the beneficiary. There is no indication that the representation applied to both the beneficiary and the petitioner. Although the record contains a properly executed Form G-28 signed by [REDACTED], the petitioner's attorney at the time of filing the petition, [REDACTED] did not pursue an appeal on the petitioner's behalf, as the appeal was filed by an attorney who was authorized to represent the beneficiary, who is not an affected party in this visa petition proceeding and is not entitled to file the appeal. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). As such, the appeal was improperly filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Even if a properly executed Form G-28 had been submitted, the petitioner's appeal would have been summarily dismissed for the reasons stated below.

The petitioner filed a nonimmigrant visa petition seeking to continue the employment of the beneficiary in the position of general manager for an additional three years 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 has been and would be employed in the United States in a managerial or executive capacity.

On appeal, the petitioner disputes the director's findings, asserting that the director referred to the beneficiary by the wrong name. The petitioner also checked off the box in the Form I-290B indicating that an appellate brief or additional information would be provided within 30 days in support of the appeal. To date, however, U.S. Citizenship and Immigration Services has received no supplemental information in support of the appeal. Therefore, the AAO will consider the record complete as presently constituted.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization and seeks to enter the United States temporarily in order to continue to render his

or her services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge.

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.

Although the AAO acknowledges the director's typographical error, the petitioner neither claims nor provides evidence to establish that the director's decision contains factual or legal errors. 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.

ORDER: The appeal is rejected.