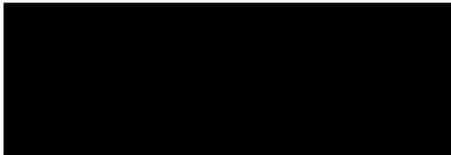




U.S. Citizenship
and Immigration
Services



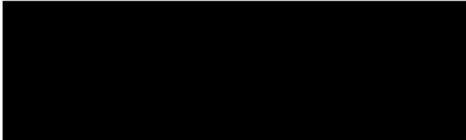
B7

DATE: **NOV 03 2012** OFFICE: VERMONT 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as a 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 petitioner, a Texas limited liability company, states that it is engaged construction and exporting construction machinery. The petitioner claims to be an affiliate of Masriah Construction, Co., located in Egypt. The petitioner currently employs the beneficiary in the position of managing director/general manager in L-1A status and seeks to extend his status for three additional years.

On October 27, 2011, the director denied the petition on two alternative grounds, concluding that (1) the petitioner failed to establish that the beneficiary's position in the United States will be primarily managerial or executive, and (2) the petitioner failed to establish that the foreign entity is doing business and will continue to conduct business while the beneficiary is employed in the United States. In denying the petition, the director found that the petitioner had one year to establish the business and hire additional personnel to relieve the beneficiary from performing the daily tasks of operating the business. The director further found that the petitioner is no longer conducting the business the new office petition was approved for and has started a new business in auto mechanics. The petitioner has failed to establish the beneficiary's role in the new business and how his new duties qualify him as a manager or executive. The director also noted that the four contracts submitted by the petitioner as evidence that the foreign entity is conducting business were insufficient.

On November 23, 2011, counsel for the petitioner submitted the Form I-290B, Notice of Appeal or Motion, to appeal the denial of the underlying petition. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. Counsel for the petitioner marked the box at part two of the Form I-290B to indicate that a brief and/or additional evidence would be submitted to the AAO within 30 days. The record does not contain a separate brief from counsel or the petitioner. The record contains a letter from counsel dated December 16, 2011 indicating that she had submitted the brief and forgot to include the attached bank statements. As of this date, the appeal brief has not been received by the AAO, thus, the AAO will consider the record complete as presently constituted.

To establish eligibility for the L-1 nonimmigrant visa classification, the petitioner must meet the criteria outlined in section 101(a)(15)(L) of the Act. Specifically, a qualifying organization must have employed the beneficiary in a qualifying managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within the three years preceding the beneficiary's application for admission into the United States. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

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.

On the Form I-290B, counsel for the petitioner simply states:

1. Service erred in finding that there was insufficient evidence to show Beneficiary completed the task for which the L-1A was initially approved, an active business in construction.
2. Service erred in finding that there was insufficient evidence to show that Beneficiary's duties were executive/managerial in nature.
3. Service erred in finding that there was insufficient evidence to show that the foreign entity has been and will continue to do business.

Neither counsel nor the petitioner has specifically identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. A simple, blanket assertion that the director's decision was in error is not sufficient for an appeal.

Accordingly, the AAO will affirm the director's decision to deny the petition. Inasmuch as the petitioner has not identified specifically an erroneous conclusion of law or statement of fact as a basis for the appeal, the appeal must be summarily dismissed. 8 C.F.R. § 103.3(a)(1)(v).

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, the petitioner has not met that burden.

ORDER: The appeal is summarily dismissed.