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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



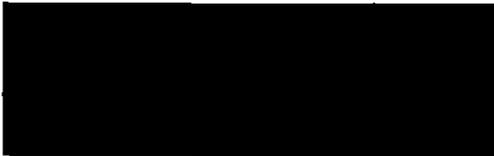
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DATE: **SEP 12 2012** OFFICE: CALIFORNIA SERVICE CENTER FILE:

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 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, California Service Center, denied the nonimmigrant visa petition. The petitioner filed a motion to reopen and reconsider to the service center. The director granted the motion to reopen the petition and subsequently affirmed the denial of the 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 employ 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 California limited liability company, states that it is engaged in transportation services. The petitioner claims to be an affiliate of [REDACTED], located in Tijuana, Mexico. The petitioner seeks to employ the beneficiary as the director of operations for a period of three years.

On January 3, 2009, the director denied the petition on two alternative grounds, concluding that (1) the petitioner failed to establish that the beneficiary's position with the foreign company is one that is primarily managerial or executive; and (2) the petitioner failed to establish that the beneficiary's position in the United States will be primarily managerial or executive.

On February 21, 2009, counsel for the petitioner filed a motion to reopen and a motion to reconsider the director's decision of January 3, 2009. The director granted the motion to reopen and subsequently affirmed the denial of the petition on February 24, 2010. In denying the petition, the director found that the petitioner did not provide sufficient evidence to establish that a staff of subordinate professional employees were relieving the beneficiary from performing non-qualifying duties at the foreign company. Additionally, the director observed that counsel failed to provide specific descriptions of the job duties of the employees under the beneficiary's supervision at the foreign company with the motion; such information had been noted as deficient in the original denial of the petition. The director further found that counsel's argument stating that the beneficiary will be managing an essential function lacks merit as the petitioner failed to submit requested evidence establishing how and why the logistics and personnel functions are essential to the purpose and functioning of the petitioning company as a whole. The director observed that the evidence failed to establish that the beneficiary's daily activities or the specific scope and nature of the beneficiary's activities at the U.S. company will be primarily managerial or executive.

On March 15, 2010, counsel for the petitioner submitted the Form I-290B 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 is attached.

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.

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 appeal, counsel submits a two-page brief that simply states, "[w]e believe that the Service erred in not considering the specific evidence submitted in the case when applying the relevant law as defined in [section 101(1)(15)(L) of the Act]. We ask that the Service consider the following evidence related to the beneficiary's respective positions with the foreign entity and the U.S. petitioner." The brief goes on to list 15 individual documents previously submitted with the original petition, in response to the request for evidence, or on motion pertaining to the beneficiary's duties with the foreign company and the U.S. company. 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 did not consider all of the evidence is not sufficient for an appeal.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. As no erroneous conclusion of law or statement of fact has been specifically identified and 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).

*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.