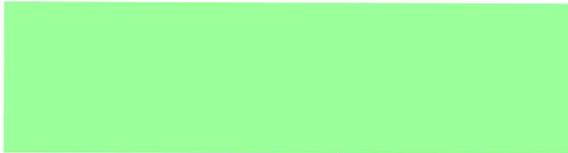




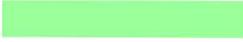
U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JAN 22 2013**

Office: CALIFORNIA SERVICE CENTER

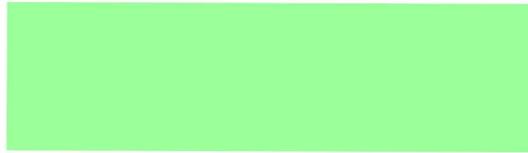
FILE: 

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,

  
4 Ron Rosenberg,  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the petition for a nonimmigrant visa. The petitioner appealed the denial to the Administrative Appeals Office (AAO), and the AAO dismissed the appeal. The matter is now before the AAO on a motion to reconsider, in accordance with 8 C.F.R. § 103.5. The motion will be dismissed.

The petitioner filed this nonimmigrant visa petition seeking to extend the beneficiary's employment as an L-1A 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 claims to operate a hotel management business. The beneficiary was previously granted a one-year period in L-1A classification to open a new office in the United States and the petitioner now seeks to extend her stay.

The director denied the petition concluding that the petitioner did not: (1) establish that it has a qualifying relationship with the beneficiary's foreign employer; or (2) establish that the beneficiary will be employed in the United States in a primarily managerial or executive capacity.

Counsel for the petitioner appealed the director's findings, asserting that the record established that the filing criteria had been met. Counsel stated a brief or additional information would be provided in 30 days to support the appeal, but the AAO did not receive any supplemental information. Accordingly, the AAO summarily dismissed the petitioner's appeal finding the appeal failed to identify specifically an erroneous conclusion of law or statement of fact as a basis for the appeal, as required by 8.C.F.R. § 103.3(a)(1)(v).

On motion, counsel for the petitioner submits a brief and additional evidence. Counsel "reserve[s] the right to supplement [the] brief within the next 60 days."<sup>1</sup>

The regulation at 8 C.F.R. § 103.5(a)(3) states:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or [U.S. Citizenship and Immigration Services (USCIS)] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The regulation at 8 C.F.R. § 103.5(a)(4) states, in pertinent part: "A motion that does not meet applicable requirements shall be dismissed."

---

<sup>1</sup> As a preliminary matter, although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. See 8 C.F.R §§ 103.5(a)(2) and (3). Therefore, counsel's request for 60 days in which to submit additional documentation is denied. Nevertheless, the AAO notes that the motion was filed on May 31, 2012, and, as of this date, no additional documentation has been incorporated into the record of proceeding.

Counsel for the petitioner submits the instant motion for reconsideration of the AAO's decision summarily dismissing the petitioner's appeal, but fails to state the reasons for reconsideration or provide any pertinent precedent decisions to establish that the summary dismissal was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. Absent evidence that the petitioner or counsel identified specifically any erroneous conclusion of law or statement of fact upon appeal, the AAO's decision to summarily dismiss the appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v) was correct. Counsel has not articulated any grounds for reconsideration of the AAO's decision. Therefore, the AAO's decision will not be disturbed and the motion will be dismissed in accordance with 8 C.F.R. § 103.5(a)(4).

Motions for the reopening or reconsideration of immigration proceedings are disfavored for the same reasons as petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *See INS v. Doherty*, 502 U.S. 314, 323 (1992)(citing *INS v. Abudu*, 485 U.S. 94 (1988)). A party seeking to reopen a proceeding bears a "heavy burden." *INS v. Abudu*, 485 U.S. at 110. With the current motion, the movant has not met that burden. The motion will be dismissed.

It should be noted for the record that, unless USCIS directs otherwise, the filing of a motion to reopen or reconsider does not stay the execution of any decision in a case or extend a previously set departure date. 8 C.F.R. § 103.5(a)(1)(iv).

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. Accordingly, the motion will be dismissed, the proceedings will not be reconsidered, and the previous decisions of the director and the AAO will not be disturbed.

**ORDER:** The motion is dismissed.