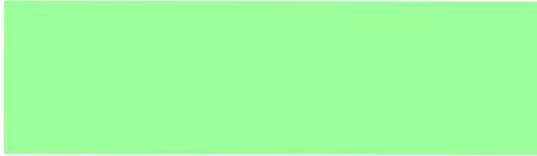




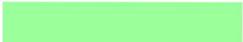
U.S. Citizenship
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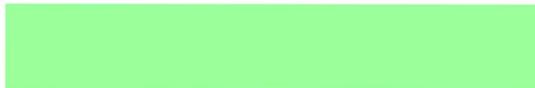


DATE: JAN 08 2015

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief Administrative Appeals Office

DISCUSSION: The Vermont Service Center Director (director) denied the petition for a nonimmigrant visa. The petitioner has subsequently filed a total of three appeals and eight motions with the Administrative Appeals Office (AAO). Most recently, the AAO dismissed the petitioner's motion to reopen and reconsider in a decision dated September 25, 2014. The matter is once again before the AAO on a motion to reopen and reconsider. The motion will be dismissed.

The petitioner seeks authorization to extend the beneficiary's employment as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L). The petitioner is a corporation organized under the laws of the State of New Jersey and is engaged in the wholesale of general merchandise. The beneficiary was initially granted a one-year period of stay in the United States in L-1A status in order to open a new office.

The director denied the petition on February 24, 2004, concluding that the petitioner failed to establish that the beneficiary would be employed in a primarily managerial or executive capacity under the extended petition. Although we summarily dismissed the petitioner's appeal on February 1, 2006, the petitioner subsequently filed a motion to reopen that was granted for the purpose of considering a timely filed appellate brief that had not been incorporated into the record prior to our initial decision. As discussed in our previous decisions, we issued a 14-page decision affirming the director's decision to deny the petition and we dismissed the appeal on May 17, 2007.

On June 14, 2007, the petitioner filed a second appeal, which we rejected as improperly filed on December 4, 2007, noting that we do not exercise appellate jurisdiction over our own decisions. We also found that the appeal did not meet the requirements for a motion to reopen or reconsider. On January 4, 2008, we reviewed and dismissed a subsequent motion, which was followed by a third appeal, despite the fact that the petitioner had been previously informed that multiple appeals on a single petition are not allowed. Accordingly, we rejected the appeal on November 25, 2008 and once again noted that we do not exercise appellate jurisdiction over our own decisions. The petitioner proceeded to file four subsequent motions to reopen and reconsider, all of which were dismissed pursuant to the regulation at 8 C.F.R. § 103.5(a)(4), based on the petitioner's failure to satisfy applicable filing requirements. The petitioner's subsequent filing was a fifth motion to reopen and reconsider in which the petitioners asked us to consider a supporting brief, which the petitioner did not submit simultaneously with the Form I-290B, Notice of Appeal or Motion, filed on April 26, 2013. Rather, the petitioner altered Part 2, subsection F of the Form I-290B from the original version, which states, "My brief and/or additional evidence is attached," to read the following: "My brief and/or additional evidence will be submitted in 90 days (ninety)." It is noted that the brief was not incorporated into the record prior to our review of the petitioner's motion, thus leading us to conclude that the petitioner did not provide evidence to support the motion to reopen and reconsider. The basis for the subsequent (sixth) motion was to request consideration of additional evidence and a supporting brief, which was intended to be submitted in support of the motion that was filed on April 26, 2013. Both motions were dismissed.

Although the petitioner has filed a seventh motion to reopen and reconsider, it has once again altered the Form I-290B to indicate that a brief and/or additional evidence "will be submitted in 90 days." Again, the record shows no further evidence submitted since the filing of the Form I-290B. Moreover, while Part 3, No. 1(b) of the Form I-290B allows the petitioner an additional thirty days in which to submit a brief and/or additional evidence in the course of filing an appeal, the same option is not available in the course of filing a

motion; any additional evidence or a supporting brief that the petitioner intends to submit when filing a motion must be submitted simultaneously with the Form I-290B.

The regulations at 8 C.F.R. § 103.5(a)(2) state, in pertinent part, that a motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. As the petitioner has not submitted any supporting evidence, it has failed to meet the requirements of a motion to reopen.

Next, with regard to the motion to reconsider, the regulation at 8 C.F.R. § 103.5(a)(3) states, in pertinent part: “[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 Service policy.”

We continue to emphasize, as we have in our prior decisions, that in order to merit reconsideration of our latest decision the petitioner must first state the reasons why the petitioner believes the most recent decision was based on an incorrect application of law or policy; and the petitioner must then specifically cite laws, regulations, precedent decisions, and/or binding policies that establish how we misapplied in our prior decision. 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.

As the petitioner did not provide a statement and or any evidence to support the instant motion, it has failed to meet any of the above requirements. For the foregoing reasons, the instant motion does not meet the requirements of a motion to reopen or a motion to reconsider. Therefore, the motion will be dismissed pursuant to 8 C.F.R. § 103.5(a)(4), which states, in pertinent part, that a motion that does not meet applicable requirements shall be dismissed and the previous decisions will not be disturbed.

ORDER: The motion is dismissed.