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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, DC 20536

[Redacted]

File: [Redacted] Office: TEXAS SERVICE CENTER

Date: **MAY 28 2003**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

[Redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based visa petition was denied by the Director, Texas Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner purports to be a corporation organized in the State of Florida in July 1986. It is engaged in the turnkey distribution and maintenance of complete radio stations. It seeks to employ the beneficiary as its chief engineer and maintenance manager. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. The director determined that the petitioner had not established a qualifying relationship with the beneficiary's foreign employer. The director also determined that the petitioner had not established that the beneficiary had been employed outside the United States for one year in a managerial or executive capacity for the claimed foreign entity. The director further determined that the petitioner had not established that the beneficiary had been or would be employed in a primarily managerial or executive capacity for the petitioner. The director finally determined that the petitioner had not established its ability to pay the beneficiary the proffered wage and had not established that it had been doing business for a one-year period prior to filing the petition.

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.

On the Form I-290B Notice of Appeal filed on March 15, 2002, counsel states that a brief and/or evidence will be submitted within 30 days. To date more than one year later, the Bureau has not received a brief and/or evidence in this matter.

The Form I-290B states in pertinent part, that "[t]he INS denied the application based on certain erroneous observations which we intend to correct with evidence which will establish my client's eligibility for the benefit sought." Counsel continued by stating that he needed an additional 30 days to gather evidence for submission to the Bureau. As noted above, the Bureau has not received any further evidence.

Counsel does not identify any erroneous conclusion of law or statement of fact on appeal. Inasmuch counsel does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal the regulations mandate the summary dismissal of the appeal.



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 burden has not been met.

ORDER: The appeal is summarily dismissed.