D7

U.S. Department of Justice

Immigration and Naturalization Service

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

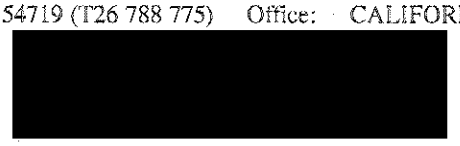
OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

FEB 11 2003

File: WAC 00 237 54719 (T26 788 775) Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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)

IN BEHALF OF PETITIONER: [redacted] PUBLIC COPY

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 Service 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, California Service Center on February 28, 2001. On October 15, 2002, the director informed the petitioner of his intent to revoke the approval of the petition as the beneficiary was clearly not eligible for the benefit sought. On December 6, 2002, the director revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is engaged in the sale of purified water and water purification systems. It seeks to continue to employ the beneficiary temporarily in the United States as its president and CEO. The director determined that the petitioner had not established that [redacted] has been engaged in the regular, systematic, and continuous provision of goods and/or services. The director also found that petitioner had not established that the beneficiary would be employed in the United States in a primarily managerial or executive capacity.

On appeal, counsel states that the beneficiary runs Aqua King Bottling and that his business suffered severe setbacks due to the actions of his ex-wife who conspired with others to destroy or steal his assets. Counsel further states that it is these people that caused the beneficiary to be taken into detention by the Immigration Service. Counsel argues that the INS's prolonged illegal detention of the beneficiary further damaged his business. Counsel indicates that evidence will show a continuous effort to build the beneficiary's business. Counsel asserts that as the beneficiary's visa was issued until August 2003, the beneficiary should be permitted to build his business until that time and then seek an extension of his visa should he be successful in the next eight months.

Counsel states that a brief and/or evidence will be forwarded within 30 days, on or before January 18, 2003, however, as of this date, no additional evidence has been received for inclusion in the record.

The petitioner has not sufficiently addressed the director's reasons for denial and no further evidence has been received in support of the appeal. Consequently, the record must be considered complete.

The regulations at 8 C.F.R. § 103.3(a)(1)(v) provide for summary dismissal of any appeal when the party fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

As the petitioner has provided no additional evidence 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).

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.

ORDER: The appeal is dismissed.