



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 21 2015**

FILE #: [REDACTED]

RECEIPT #: [REDACTED]

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)

IN BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the immigrant visa petition. The petitioner subsequently filed an appeal with the Administrative Appeals Office (AAO). The appeal was summarily dismissed. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The petitioner is a New York corporation that seeks to employ the beneficiary as its operations 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 denied the petition concluding that the petitioner did not establish the following: (1) a qualifying relationship exists between the petitioner and the beneficiary's former employer abroad; (2) the beneficiary would be employed in the United States in a qualifying managerial or executive capacity; (3) the beneficiary was employed abroad in a qualifying managerial or executive capacity; (4) the petitioner had been doing business for one year prior to filing the instant petition; and (5) the petitioner had the ability to pay the beneficiary's proffered wage at the time the petition was filed.

In a decision dated November 13, 2014, we summarily dismissed the petitioner's appeal, concluding that the petitioner did not address any of the director's findings or specify how the director's decision was erroneous.

On the current motion to reconsider, the petitioner submits an appellate brief, which addresses the original five grounds for the director's denial.

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. 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.

As a preliminary matter, we note that the review of any matter on motion is narrowly limited to the basis for the prior adverse decision. In this matter, the subject matter of our November 13, 2014 decision was limited to a summary dismissal of the petitioner's appeal based on the petitioner's failure to address any of the adverse findings that served as the grounds for denial.

In light of the above, the scope of this discussion will be limited to only consideration of adequately documented reasons, supported by pertinent precedent decisions, establishing that our prior decision to summarily dismiss the petitioner's appeal was incorrect and that a withdrawal of the erroneous decision is warranted. However, after reviewing the petitioner's brief, we find that the petitioner addressed elements that pertain specifically to the director's grounds for denying the petition, rather than our basis for summarily dismissing the appeal. The petitioner makes no claim, nor provides a statement supported by pertinent precedent decisions, to establish that our decision to summarily dismiss the appeal was "based on an incorrect application of law or Service policy." *Id.* Therefore, this motion will be dismissed in accordance with 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.



As a final note, the proper filing of a motion to reopen and/or reconsider does not stay our prior decision to dismiss an appeal or extend a beneficiary's previously set departure date. 8 C.F.R. § 103.5(a)(1)(iv).

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 sustained that burden.

**ORDER:** The motion is dismissed.