



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 9868457

Date: SEPT. 24, 2020

Appeal of California Service Center Decision

Form I-129, Petition for E-2 Treaty Investor

The Applicant, an “on-demand” car rental service, seeks to employ the Beneficiary in the United States as its “Director” in the nonimmigrant classification of an E-2 Treaty Investor, pursuant to 8 C.F.R. §§ 214.2(e)(20) and (21). In accordance with the regulations, the application for a change of status and extension of stay was filed on Form I-129, Petition for a Nonimmigrant Worker. *See* 8 C.F.R. § 214.1(c)(1).

The Director of the California Service Center denied the application. The matter is now before us on appeal. The appeal will be rejected.

Pursuant to the regulations at 8 C.F.R. § 214.1(c)(5) there is no appeal from the denial of an application for an extension of status of an E-1 or E-2 treaty trader or treaty investor. We note that there is no petition requirement for E-2 Treaty Investors and there is no petition determination that may be appealed. When it published the Final Rule governing the nonimmigrant classification, the Immigration and Naturalization Service (former INS, now USCIS) noted:

[U]nder section 103 of the Act, the service has exclusive jurisdiction to adjudicate applications for admission to this country, as well as applications for change of nonimmigrant status to, or extensions of stay in, E nonimmigrant classification. In this regard, it should be noted that, unlike other employment-driven classifications, E nonimmigrant visa classification is not conferred by means of a petition, but instead by an application.

62 Fed. Reg. 48138 (Sept. 12, 1997).

Although an appeal was subsequently filed, it must be rejected pursuant to the regulation at 8 C.F.R. § 214.1(c)(5), which states:

Decision in Form I-129 or I-539 extension proceedings. Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. *There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.*

(Emphasis added.)

Because this application is for a change of status and an extension of stay, the appeal will be rejected.

ORDER: The appeal is rejected.