U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-G-B- INC

DATE: APR. 3, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a "Convenient Store," seeks to temporarily employ the Beneficiary as an Executive Manager of its new office under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The Director of the Vermont Service Center denied the petition and we summarily dismissed appeal. The matter is now before us on a motion to reopen and a motion to reconsider. Upon review, we will deny the motions.

A motion to reopen is based on factual grounds and must (1) state the new facts to be provided in the reopened proceeding; and (2) be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

For the purposes of this motion, the scope of our review is limited to the latest decision, which was our decision dismissing the Petitioner's appeal. Therefore, the issue in this matter is whether we properly summarily dismissed the Petitioner's appeal of the Director's revocation decision. The Petitioner's motion does not address our decision to summarily dismiss the Petitioner's appeal. As such, the Petitioner has not shown proper grounds for the reopening or reconsideration of our decision.

A review of the record confirms that our summary dismissal of the appeal was warranted. The regulations state: "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." 8 C.F.R. § 103.3(a)(1)(v).

The Petitioner's appeal consisted of a Form I-290B, Notice of Appeal or Motion, in which the Petitioner indicated that it would submit a brief and/or additional evidence within 30 calendar days of filing the appeal. While the Petitioner was not required to submit a brief or additional evidence, Part 4 of the Form I-290B does require the filing party to provide a separate sheet of paper with a statement that specifically identifies an erroneous conclusion or law or fact in the decision being appealed. The Petitioner did not submit this required statement and did not supplement the appeal

with a brief or evidence after filing it. We properly determined that the regulations required the summary dismissal of the appeal.

The Petitioner has not provided new evidence on motion to establish that it had timely submitted the required statement, a brief, or additional evidence to establish a basis for its appeal. Nor has the Petitioner stated that our decision to summarily dismiss the appeal was based on an incorrect application of law or policy. Accordingly, the combined motion will be denied.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of S-G-B- INC*, ID# 1259177 (AAO Apr. 3, 2018)