U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16314566

Date: APR. 14, 2021

Appeal of California Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, a software engineering and data storage company, seeks to temporarily employ the Beneficiary as its "Chief Executive Officer" under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the California Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary would be employed in the United States in a managerial or executive capacity. The Director's analysis focused on the Beneficiary's subordinates, finding that their job descriptions were "rather brief and generic" and did not include "tasks that are primarily managerial in nature." The Director also noted that the Beneficiary's subordinates have no subordinates of their own and that the Petitioner therefore did not demonstrate that its organizational structure is sufficient to elevate the Beneficiary to an executive-level position.[1] The Director concluded that "[f]or the foregoing reasons," the Petitioner did not demonstrate eligibility.

On appeal, the Petitioner contends that the instant petition warrants approval and reiterates its original claim, that the Beneficiary has been and would be employed in an executive capacity.

Upon *de novo* review, we conclude that the Director incorrectly assigned elements of the definition of managerial capacity to the Beneficiary's subordinates.[2] Because the Director did not properly review the evidence and provided an analysis inconsistent with regulatory criteria, we cannot affirm the denial. Instead, we will remand the matter for further proceedings where the Director shall consider the relevant facts within the scope of applicable legal standards.

ORDER: The Director's decision is withdrawn. The matter is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

[1] The Petitioner claimed that the Beneficiary would be employed in an executive capacity.

[2] *See* sections 101(a)(44)(A) and (B) of the Act, requiring a petitioner to establish that the *beneficiary* of the visa petition meet the statutory criteria of managerial or executive capacity.