U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16226072

Date: APR. 20, 2021

Appeal of Texas Service Center Decision

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

The Petitioner states that it intends to do business as an importer and exporter of "health foods and traditional oriental herb medicine and products." It seeks to employ the Beneficiary temporarily as "Director of Operations" of its new office[1] 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 L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the Texas Service Center denied the petition concluding that the Petitioner did not establish, as required, that: (1) it had secured sufficient physical premises to house the new office; (2) the Beneficiary was employed abroad in a managerial or executive capacity; and (3) the new office would support the Beneficiary in a managerial or executive position within one year of the petition's approval. The matter is before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification in a petition involving a new office, a qualifying organization must have employed the beneficiary in a managerial or executive capacity for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(3)(v)(B). In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.*

[1] The term "new office" refers to an organization which has been doing business in the United States for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

Further, in the case of a new office petition, the petitioner must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. This evidence must establish that the petitioner secured sufficient physical premises to house its operation and disclose the proposed nature and scope of the entity, its organizational structure, its financial goals, and the size of the U.S. investment. *See generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. ANALYSIS

As noted above, the Director denied the petition because the Petitioner did not establish: (1) it had secured sufficient physical premises to house the new office; (2) the Beneficiary was employed in a managerial or executive capacity; and (3) the new office would support the Beneficiary in a managerial or executive position within one year of the petition's approval. Each ground stands as an independent basis for the denial of the petition. On appeal, the Petitioner only addresses the third ground regarding the Beneficiary's proposed employment, but it does not dispute or otherwise discuss the first or second grounds concerning the physical premises requirement or the Beneficiary's employment abroad. Although the Petitioner marked Box 1.b in Part 2 of the Form I-290B, indicating that it intended to submit a brief and/or additional evidence within 30 days of filing the appeal, the record contains no such additional evidence. As the Petitioner does not address issues on appeal concerning the physical premises requirement or the Beneficiary's employment abroad, it has abandoned its claims. *See Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived); *see also Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, 9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO). When an appellant fails to properly challenge one or more of the independent grounds upon which the Director based the overall determination, the filing party has abandoned any challenge of that ground or grounds, and it follows that the Director's adverse determination will be affirmed. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680 (11th Cir. 2014); *United States v. Cooper*, No. 17-11548, 2019 WL 2414405, at *3 (11th Cir. June 10, 2019). For this reason, the appeal will be dismissed.

In light of the above, it is unnecessary to analyze the remaining independent ground, given that two other grounds are dispositive of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (finding it unnecessary to analyze additional grounds when another independent issue is dispositive of the appeal); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). Because the Petitioner has abandoned its claims regarding two issues that served as grounds for the denial, this petition cannot be approved.

ORDER: The appeal is dismissed.