U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42330533

Date: APR. 23, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner intends to operate a consulting services company "with a strategic focus on the U.S. golf industry." It seeks to employ the Beneficiary temporarily as "CEO" of its new office[1] in the United States 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that the Beneficiary was employed in an executive capacity.[2] The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

Further, we adopt and affirm SCOPS' conclusion that the record lacked sufficient evidence establishing that the Beneficiary was employed abroad in an executive capacity. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

After issuing a request for evidence (RFE), SCOPS considered the evidence in the record, including a support letter from the foreign entity along with several charts listing the foreign employees' names, position titles, education levels, salaries, and brief job duties. SCOPS then denied the petition, noting

[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.

[2] The Petitioner's claim rests solely on the assertion that the Beneficiary was employed in an executive capacity. The Petitioner does not claim that the Beneficiary was employed in a managerial capacity.

that despite being issued an RFE, which notified the Petitioner of the need for additional evidence "to support the [Beneficiary's] asserted executive duties," the Petitioner did not provide corroborating evidence showing that the Beneficiary performed the executive actions discussed in his job description, such as establishing long-term strategic partnerships with industrial leaders, developing and publishing patent applications, or managing investments in software development subsidies. SCOPS noted that the Petitioner must establish that the Beneficiary had the ability to direct the management of the foreign organization and establish its goals and policies. However, SCOPS determined that because the Petitioner did not provide evidence to support the claim that the Beneficiary "performed the extensive duties described," the Petitioner did not establish that the Beneficiary's employment abroad was in an executive capacity.

On appeal, the Petitioner argues that SCOPS "confuses managerial and executive," asserting that its RFE response "clearly showed that the beneficiary was and is an executive, as he was and is CEO of a very substantial company in Japan with subsidiaries in China." We find that these arguments are not persuasive and that the record does not establish that the Beneficiary was employed in an executive capacity.

First, as indicated above, in its analysis SCOPS paraphrased the first two prongs of the statutory definition of executive capacity and in several instances, SCOPS incorporated the term "executive" when referring to the Beneficiary's job duties. SCOPS also acknowledged, "You [the Petitioner] did not indicate that the position abroad was managerial." We therefore disagree with the assertion that SCOPS confused the terms managerial and executive capacity when reviewing the evidence.

We also disagree with the claim that the Petitioner "clearly showed" that the Beneficiary was employed in an executive capacity. The record shows that the Petitioner did not provide a detailed description of the Beneficiary's employment abroad but rather relied on vague statements broadly discussing his responsibilities and business objectives. For instance, the Petitioner stated that the Beneficiary was responsible for establishing a profitable technology company group and forging "a long-term strategic partnership with leading global automotive parts manufacturers." However, the record does not contain evidence of the duties performed by the Beneficiary for one year during the three years prior to filing this petition. The record also does not contain evidence of the Beneficiary's role in creating business partnerships or evidence of the partnerships themselves. And while the Petitioner claimed that the Beneficiary developed and published a patent application, it did not explain how developing and publishing a patent application is an executive job duty that illustrates the Beneficiary's role as someone who directed the management of the organization. Likewise, although the Petitioner claimed that the Beneficiary "[m]anaged investments in software development subsidies in China by providing technical support for our customers," it did not elaborate on the Beneficiary's role by discussing his actual duties.

Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990). Here, the Beneficiary's job description lacks specific information about the duties he performed in the daily or weekly course of business.

Lastly, the Petitioner unduly relies on the Beneficiary's position title as "CEO of a very substantial company." The fact that the Beneficiary managed or directed a business does not necessarily establish eligibility for classification as an intracompany transferee in a managerial or executive capacity within the meaning of section 101(a)(44) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" executive or managerial in nature. Sections 101(A)(44)(A) and (B) of the Act. While the Beneficiary may exercise discretion over a company's day-to-day operations and possess the requisite level of authority with respect to discretionary decision-making, his actual duties may not be primarily executive in nature. To make this determination, we rely on specific information about a beneficiary's actual daily tasks as an important indication of whether their duties are primarily executive in nature; otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

As previously stated, the Petitioner did not adequately describe the Beneficiary's foreign job duties and instead focused on the Beneficiary's role as CEO of the organization and his discretionary authority over the business. While we agree that this information is relevant, it does not take the place of a detailed job description elaborating on the job duties the Beneficiary performed within the scope of the foreign business.

In sum, the Petitioner did not establish that the Beneficiary was employed abroad in an executive capacity as claimed.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.