U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 7051685

Date: APR. 30, 2020

Appeal of Texas Service Center Decision

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

The Petitioner is a biopharmaceutical research company that seeks to temporarily employ the Beneficiary as its president 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 Texas Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad and would be employed in the United States in a managerial or executive capacity. The Director relied on findings that resulted from the Beneficiary's 2016 interview with a U.S. consulate officer, who determined that the Beneficiary provided statements that were inconsistent with claims made by the Petitioner regarding the Beneficiary's U.S. and foreign employment. The Director also determined that the Petitioner did not provide sufficient evidence establishing that the Beneficiary's foreign and proposed employment primarily involve supervision and control over supervisory, professional, or managerial subordinates.

On appeal, the Petitioner disputes the consular officer's findings as well as the grounds for denial, arguing that the Director focused primarily on the consular officer's findings and did not adequately contemplate previously submitted evidence, which included job descriptions for the Beneficiary and his subordinates, approvals from the U.S. Food and Drug Administration of the Petitioner's pharmaceutical products, the foreign entity's continued investment of sizable funds into the U.S. entity's research operation, and the organization's manufacturing, sales, and research facilities in China, Cambodia, and Singapore. The Petitioner also points to industry recognition of the foreign entity, its vaccine products, and the Beneficiary's top leadership role within the organization that has developed and advanced those products on a global scale, highlighting the Beneficiary's discretionary authority over managerial personnel and his direction of the organization's research projects.

Upon *de novo* review, we find that the Petitioner provided sufficient supporting evidence to support its claims. Although we generally give deference to the Department of State's consular officers based

on presumption of regularity, even with the consular memo on the record, the Petitioner has satisfied the preponderance of the evidence standard of proof. Therefore, we will sustain the appeal.

ORDER: The appeal is sustained.