U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41531664

Date: AUG. 21, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner, which intends to provide educational support services to foreign exchange students, seeks to temporarily employ the Beneficiary as chief executive officer (CEO) of its new office under the L-1A nonimmigrant classification for intracompany transferees.[1] *See* 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.

U.S. Citizenship and Immigration Services (USCIS) denied the petition, concluding the record did not establish that the Beneficiary has been employed abroad in a managerial or executive capacity. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motion.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

[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). A "new office" must support an executive or managerial position within one year of the petition's approval. 8 C.F.R. § 214.2(l)(3)(v)(C).

In dismissing the appeal, we emphasized that the Petitioner's statements to the Department of State (DOS) in a visa application in 2022 conflicted with his asserted qualifying foreign employment.[2] For instance, the Beneficiary indicated in a nonimmigrant visa application to the DOS that he had been employed with a real estate development company abroad and he answered "no" when asked if he had been employed elsewhere prior to beginning to run this company in 2013. We also pointed to the fact that his submitted resume did not discuss his employment with a real estate development company. These statements stood in conflict with his assertion that he had only been employed by his asserted foreign employer in this matter, [redacted]), in an executive capacity.

We further discussed the Beneficiary's assertion on appeal that he remained active in both roles with the real estate development company and [redacted] while claiming full-time employment with his qualifying foreign employer from 9:00 am to 4:00 (or 5:00) pm. In addition, we indicated it was questionable that he made no other mention of his dual employment as a CEO with the real estate development company on the record. We determined that this material discrepancy was significant since the regulation at 8 C.F.R. § 214.2(l)(3)(iii) requires "one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition." In sum, we concluded that these credibility issues left significant doubt as to whether the Beneficiary's asserted foreign employer, [redacted] consistently employed him full-time and in the capacity claimed.

In addition, we noted several insufficiencies and discrepancies on the record regarding [redacted] business activities abroad. For example, we determined that the record lacked evidence to corroborate [redacted] claimed educational consulting, student placement, tutoring, and testing services, including evidence of the employment of its asserted subordinates abroad. We also pointed to conflicting evidence submitted by the Petitioner regarding the [redacted] business activities, including business-to-business agreements with airline ticketing companies referring to [redacted] as a travel agency and obligating it to promote the sale of airlines tickets. We stated that the evidence did not reflect that [redacted] had employees specific to the travel business in the provided organizational chart and emphasized that the Petitioner did not discuss why the foreign employer sold airline tickets or entered into agreements related to this business. Likewise, we stated that the Petitioner also listed generic business descriptions in its memorandum of association and its 2023 and 2024 financial statements, which also further referred to the company's involvement with "loading stations." In total, we determined that the evidence left the true nature of [redacted] business activities unclear. As such, we stated that we could not reasonably determine the Beneficiary's duties and whether his position fit within the regulatory definition of an executive.

On motion, the Petitioner submits a declaration from the Beneficiary, an "executive summary and corporate structure" document, a "clarification letter" addressing his claimed dual employment abroad, along with other documentation and affidavits from his colleagues and clients abroad. The Petitioner asserts that this additional documentation "directly addresses the factual misunderstandings" in our prior decision.

[2] As we indicated in our prior decision, the Beneficiary's resume reflected that he worked for his asserted foreign employer as a tutor from 2009 to 2015, and as CEO from 2015 to 2023, and his resume showed no other employment. USCIS discussed the Beneficiary's conflicting statements to DOS in the denial decision.

We disagree with the contention that there were misunderstandings of the prior record, and the documentation provided on motion does not sufficiently address the determinations made in our prior decision. For instance, we discussed the Beneficiary's claimed dual employment abroad, namely, that he was employed as "managing director/CEO" with his family's real estate development company, while also being employed *full-time* with his qualifying foreign employer [redacted] As we importantly noted, regulation at 8 C.F.R. § 214.2(l)(3)(iii) requires "one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition."

On motion, the Beneficiary states in a provided affidavit that he "served as the Chief Executive Officer (CEO) of [redacted] prior to my relocation to the United States of America in 2023." Likewise, a foreign employer support letter submitted in response to a USCIS request for evidence (RFE) in February 2025 stated that the Beneficiary held the position of CEO with [redacted] "until his transition to lead the U.S. expansion of our company through [the Petitioner]" in 2023. In the very same letter and in the Form I-129, Petition for a Nonimmigrant Petition, the Petitioner indicated in apparent conflict that he had been employed "full-time" with [redacted] from "January 2009 to the present (January 2025)." However, again in conflict, the Petitioner submitted a support letter dated in November 2024 from the "new" CEO of [redacted] indicating that he had recently assumed the role "following the transition of [the Beneficiary] to lead our U.S. operations." The Beneficiary further stated in an affidavit on appeal that "prior to relocation [to the United States], I formally stepped back from my day-to-day responsibilities at both Nigerian companies to fully dedicate myself to building [the Petitioner]." Notably, the Beneficiary's resume likewise reflects that his employment with [redacted] ended in 2023. As such, the Petitioner has submitted numerous conflicting statements as to the dates of his foreign employment leaving substantial question as to whether he was employed in a qualifying executive position abroad and the evidence provided on motion does little to overcome our prior conclusions as to the discrepancies in his claimed employment abroad.

Further, the Petitioner's assertion that the Beneficiary's employment with [redacted] ended in 2023 leaves substantial uncertainty as to whether he was employed full-time for one continuous year abroad with a qualifying organization within the three years preceding the filing of the petition. The petition was filed on January 12, 2025; as such, the Petitioner must demonstrate that the Beneficiary was employed for one continuous year abroad within the period of January 12, 2023, to January 12, 2025. The Petitioner appears to suggest that we should consider his foreign employment prior to his claimed entry into the United States in 2023. However, USCIS only considers a nonimmigrant in the United States as one who has come to this country to work for a qualifying organization and who is employed by that organization as a principal beneficiary of an employment-based nonimmigrant petition or application. *See, generally*, 2 *USCIS Policy Manual* L.6(G)(*4*), https://www.uscis.gov/policymanual.

Here, USCIS records reflect that the Petitioner came to the United States as a B-2 nonimmigrant on three different occasions from May 2023 to December 2024, not as a principal beneficiary of an employment-based nonimmigrant petition, and it has submitted no evidence to demonstrate otherwise.[3] Therefore, the Petitioner stating that the Beneficiary's claimed full-time employment with [redacted] ended when he entered the United States in May 2023 reflects that he was not employed in

[3] USCIS records reflect the Beneficiary entered the United States on B-2 nonimmigrant visas for the following periods of time: 1) May 10, 2023, to June 26, 2023; 2) August 21, 2023, to November 20, 2023; and 3) July 7, 2024, to December 12, 2024.

an executive capacity full-time for one continuous year abroad with a qualifying organization within the three years preceding the filing of the petition. For instance, even if we accept this employment, it would only have only been qualifying employment from January 12, 2023, until his stated departure from [redacted] sometime in 2023, insufficient to demonstrate one year of fulltime continuous employment during the qualifying period. The Petitioner must resolve inconsistencies and discrepancies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.; see also Matter of O-M-O-*, 28 I&N Dec. 191, 197 (BIA 2021) ("by submitting fabricated evidence, the appellant compromised the integrity of his entire claim") (cleaned up). Therefore, the Petitioner did not submit new evidence on motion to demonstrate his eligibility for the benefit sought but has, in fact, acknowledged he is ineligible.

In addition, we determined in our prior decision that the evidence left [redacted] actual business activities unclear and that we could not reasonably determine his duties and whether his position fit within the regulatory definition of an executive. For instance, we pointed to evidence reflecting [redacted] involvement in apparent travel agency services and loading stations, rather than its claimed educational services. The Petitioner does not discuss the discrepancies in its business activities on motion or provide sufficient supporting evidence to overcome them.

The Petitioner emphasizes on motion that the Beneficiary oversaw managers abroad; however, it provides little supporting documentation to substantiate this assertion. In fact, the Petitioner questionably submits [redacted] payroll documentation reflecting claimed subordinates, bank records, and invoices all dated in 2025. However, as we have discussed, the Beneficiary states directly on motion that he stepped away from his role with [redacted] in 2023; as such, [redacted] documentation from 2025 is not relevant to demonstrating his qualifying executive position. Beyond this, the Petitioner has submitted little supporting documentation to substantiate that he acted in a role where he was primarily performing executive level duties and setting the goals and policies of [redacted] while overseeing subordinate managers. This lack of evidence is particularly noteworthy since the Petitioner asserts that he acted in this role for approximately eight years. An executive directs the management of the organization, major component, or essential function of a given organization by controlling the work of managerial or lower-level executive employees. *See generally* 2 *USCIS Policy Manual* L.6(D), https://www. uscis.gov/policy-manual. *See also BlueStar Cabinets, Inc. v. Jaddou*, No. 21-10116, 2022 WL 4364734, at *7 (5th Cir. Sept. 21, 2022) (holding that "'[d]irect[ing] the management of the organization' necessarily includes directing managers of the organization.").

Therefore, as the Petitioner has not submitted new facts supported by documentary evidence that demonstrate his eligibility for the benefit sought, the motion to reopen must be dismissed.

II. MOTION TO RECONSIDER

A motion to reconsider must establish that our prior 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i),

(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In support of the motion to reconsider, the Petitioner asserts that in our prior decision we incorrectly characterized the Beneficiary's duties as operational, overlooked evidence demonstrating his supervision of "professional managers," and treated the real estate development company he worked for as a part of [redacted] The Petitioner contends that a "correct interpretation of the evidence demonstrates that the Beneficiary satisfies every statutory requirement."

First, our prior decision includes no direct discussion of the Beneficiary's duties as operational, only a discussion as to the lack of evidence of his performance of higher executive-level tasks. We note that the Petitioner has the burden of proof in this matter. As we noted in the previous section, there is little supporting documentation to corroborate the Beneficiary's performance of executive level duties and his setting of [redacted] goals and policies in the three years preceding the date the petition was filed. As such, it is not clear what evidence the Petitioner claimed we overlooked reflecting his supervision of "professional managers."

In addition, we did not treat the real estate development company as part of [redacted] we only indicated that there was apparent conflict between his employment there and his qualifying employment, leaving material question as to his claimed executive capacity. Even if the Beneficiary's [redacted] employment in 2023 was relevant to demonstrating his qualifying foreign employment, the Petitioner still does not explain specifically how the Beneficiary split his time between these two entities, and this is particularly questionable since he claimed he worked full-time for [redacted] Further, in apparent conflict, an affidavit provided on motion from a member of the real estate development company's board of directors (and the Beneficiary's brother) states that he "has been very active in the day-to-day activities of the [real estate development company] and was very much attuned with all the processes of the company." Again, the Petitioner has introduced even more inconsistent statements on motion and not demonstrated his eligibility for the benefit sought.

As such, the Petitioner has not sufficiently demonstrated that our prior decision was based on an incorrect application of law or policy based on the evidence in the record of proceedings at that time. For this reason, the motion to reconsider must be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

NOTICE: 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.