U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF O-I-, LLC

DATE: DEC. 12, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a manufacturer of fire motor pumps, seeks to temporarily employ the Beneficiary as the manager of its new office under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality 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 Vermont Service Center denied the petition, concluding that the Petitioner did not establish, as required, that (1) it has a qualifying relationship with the Beneficiary's last employer abroad; and (2) that the Beneficiary has been employed abroad in a managerial or executive capacity. We summarily dismissed the Petitioner's subsequent appeal because the Petitioner did not identify a specific, erroneous conclusion of law or statement of fact in the Director's decision as a basis for the appeal.

In this combined motion to reopen and motion to reconsider, the Petitioner submits a brief and additional evidence addressing the original grounds for denial of the petition.

Upon review, we will deny the combined motion.

I. MOTION REQUIREMENTS

To merit reopening or reconsideration, a petitioner must meet the formal filing requirements (such as, for instance, submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee), and show proper cause for granting the motion. 8 C.F.R. § 103.5(a)(1).

A motion to reopen is based on factual grounds and must (1) state the new facts to be provided in the reopened proceeding; and (2) be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must establish that our 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). A motion to reconsider must be supported by a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services or Department of Homeland Security policy.

We may grant a motion to reopen or reconsider that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. DISCUSSION

We summarily dismissed the Petitioner's appeal because the Petitioner did not submit provide, as required, a statement that specifically identified an erroneous conclusion of law or fact in the decision that was before us on appeal. *See* 8 C.F.R. § 103.3(a)(1)(v).

Although the Petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it would submit a brief or evidence to our office within 30 days of filing the appeal on January 17, 2017, we determined that the Petitioner had not submitted a brief or evidence. Accordingly, the Petitioner established no basis for the appeal and the summary dismissal was warranted.

Our review in this matter is limited to the narrow issue of whether the Petitioner has now presented and documented new facts or documented sufficient reasons to warrant the reopening or reconsideration of our decision to summarily dismiss its appeal.

However, the Petitioner's combined motion to reopen and reconsider does not even acknowledge that our office issued a decision on its appeal, much less attempt to overcome our reasons for summarily dismissing that appeal. Instead, the Petitioner's brief and evidence on motion address the substantive grounds for denial and appears to seek reopening or reconsideration of the Director's original decision issued on December 21, 2016.

In accordance with 8 C.F.R. § 103.5(a)(1)(ii), the official having jurisdiction over a motion is the official who made the latest decision in the proceeding, which, in this case, is this office. On motion, the Petitioner has not provided evidence that it submitted a timely filed brief or evidence in support of its appeal or otherwise shown that its appeal, when filed, contained the required statement identifying the specific erroneous conclusions of law or fact in the Director's decision. Accordingly, we will deny the combined motion.

III. CONCLUSION

For the reasons discussed, the Petitioner has not shown proper cause for reopening or reconsideration.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of O-I-, LLC*, ID# 842916 (AAO Dec. 12, 2017)