U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39125535

Date: JULY 1, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, identified as a retail clothing store,[1] seeks to temporarily employ the Beneficiary as its vice president under the L-1A nonimmigrant classification for intracompany transferees. *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.

Service Center Operations (SCOPS) denied the petition, concluding that the Beneficiary was in the United States during the time that the Petitioner claimed she was engaged in qualifying employment outside the United States. SCOPS twice reopened the petition on the Petitioner's motion, and both times SCOPS again denied the petition on the same grounds as the original denial. The Petitioner then filed an appeal, which we dismissed in September 2024. The Beneficiary of the petition then filed a motion to reopen. We dismissed that motion in January 2025 because the beneficiary of a petition generally lacks standing to file an appeal or motion. The Petitioner filed a motion to reopen and reconsider, which we dismissed in April 2025 because it did not address the grounds for dismissal of the first motion. The matter is now before us on another combined motion to reopen and reconsider, the third motion overall.

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.

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).

On motion, the Petitioner does not claim any new facts, and does not submit any new evidence. Therefore, the motion does not meet the requirements of a motion to reopen, and the regulation at 8 C.F.R. § 103.5(a)(4) requires us to dismiss the motion.

[1] We note that the motion repeatedly misidentifies the Petitioner as [redacted]

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

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). In this instance, the prior decision is our April 2025 dismissal of the second motion. In that decision, we stated:

> [W]e dismissed the previous motion because the Beneficiary had signed the appeal form and had not provided evidence to establish that she was an authorized official of the petitioning entity.
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> In our January 2025 decision, we cited the regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B), which indicates that the definition of an "affected party" "with legal standing" to file an appeal or motion "does not include the beneficiary of a visa petition." This was the only ground for dismissal of the motion, and is therefore the only issue properly before us now on motion. The Petitioner's . . . motion brief does not acknowledge or rebut this ground for dismissal.

As before, the Petitioner does not address this issue on motion. Therefore, the Petitioner has not identified an incorrect application of law or policy, and has not shown that the decision was incorrect based on the record at the time of that decision in April 2025. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(4).

The Petitioner, on motion, revisits the lack of evidence that the Beneficiary ever left the United States after 2013, which was the basis for denial of the underlying petition. The Petitioner cites periodic deletions of E-Verify records based on limits to record retention, but E-Verify does not record arrivals and departures. Likewise, the Petitioner's general claims about Indian labor laws do not explain or account for the absence of any first-hand evidence that the Beneficiary left the United States after 2013. These assertions do not address or overcome the dismissal of the prior motion in April 2025, which rested on the issue of the Beneficiary's standing to file an earlier motion.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.