U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF V- INC.

DATE: JULY 11, 2019

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, an information technology consulting and engineering company, seeks to temporarily employ the Beneficiary as a senior software engineer under the L-1B nonimmigrant classification for intracompany transferees. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1B classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee with "specialized knowledge" to work temporarily in the United States.

The Director of the Vermont Service Center denied the petition and we dismissed the appeal, concluding that the Petitioner did not overcome three out of four of the Director's findings. We withdrew the Director's finding that the Beneficiary's foreign employer is not doing business, but dismissed the appeal because we found that the record did not establish, as required, that: (1) the Beneficiary has at least one year of continuous full-time employment abroad in the three years preceding the filing of the petition; (2) the Beneficiary possesses specialized knowledge, that he has been employed abroad in a position involving specialized knowledge, and that he will be employed in a specialized knowledge capacity in the United States; and (3) the Beneficiary's proposed off-site employment at an unaffiliated employer's worksite is in compliance with the requirements of the L-1 Visa Reform Act. We noted that the appeal did not address the third issue and focused entirely on establishing whether the Beneficiary possesses specialized knowledge and was and would be employed in a specialized knowledge capacity.

On motion, the Petitioner asserts that our decision was "patently invalid," contending that we cited "unreasonable grounds" and did not give "proper consideration" to the Petitioner's "circumstances" thereby issuing a decision that is "the essence of arbitrariness and capriciousness."

Upon review, we will deny the combined motion to reopen and motion to reconsider.

I. MOTION REQUIREMENTS

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 U.S. Citizenship and Immigration Services (USCIS) 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 a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. EMPLOYMENT ABROAD

The law requires the Beneficiary to have been an "employee" who was "employed" abroad continuously for one year by the Petitioner's affiliate. Section 101(a)(15)(L) of the Act. In our decision, we agreed with the Director's finding that the Petitioner did not meet its burden to establish that the Beneficiary has at least one year of continuous full-time employment abroad with a qualifying entity in the three years preceding the filing of the petition. *See* 8 C.F.R. § 214.2(l)(3)(iii).

Although the Petitioner issues a general statement on motion broadly disputing this basis for denying the petition and dismissing the appeal, it does not state any new facts or offer a legal argument addressing the adverse finding on the issue of whether the Beneficiary's foreign employment meets the regulatory criteria described above.

Because the Petitioner did not address one of the grounds for dismissing the appeal, it has not satisfied the motion requirements. There are no facts or affidavits or other documentary evidence provided on motion regarding the issue of the Beneficiary's period of employment abroad with a qualifying entity in the three years preceding the filing of the petition. Therefore, the motion to reopen cannot be granted. Also, as the Petitioner has not addressed our adverse finding regarding this issue, it has not established that we erred by incorrectly applying law or policy to the facts presented in the record. As such, the Petitioner has not established a basis for granting the motion to reconsider.

Further, when a party fails to offer an argument on an issue, that issue is abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885, at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims abandoned when not raised on appeal to the AAO). Therefore, even if on motion, the Petitioner had overcome the other basis for the denial regarding the Beneficiary's possession of specialized knowledge, the motion to reopen and motion to reconsider nevertheless be would be denied.

III. CONCLUSION

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Because the Petitioner has not shown proper cause for reopening or reconsideration, it has not met that burden.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of V- Inc.*, ID# 4377659 (AAO July 11, 2019)