U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 2763216

Date: MAR. 12, 2020

Motion on Administrative Appeals Office Decision

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

The Petitioner, a distribution center for watches and other merchandise, seeks to temporarily employ the Beneficiary as the logistics manager of its new office[1] 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.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary was employed abroad in a managerial capacity and that she would be employed in the United States in a managerial or executive capacity within one year of approval of the new office petition. We dismissed the Petitioner's appeal, affirming both grounds for denial. We also pointed to inconsistencies that led us to further question the Petitioner's eligibility. The Petitioner subsequently filed a motion to reopen, which we did not grant because we concluded that the Petitioner did not offer corroborating evidence to support the new facts raised on motion regarding the Beneficiary's foreign and U.S. employment. We noted that the Petitioner did not acknowledge or address the additional adverse findings in our prior decision.

The matter is now before us on a combined motion to reopen and motion to reconsider. In support of the current motion, the Petitioner contends that the Beneficiary was employed abroad and would be employed in the United States in a managerial capacity. It argues that a function manager is permitted to primarily perform tasks that are necessary to produce a product or provide services under the "liberalized" statutory definition.

Upon review, we will dismiss 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.

[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). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

§ 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. ADDITIONAL FINDINGS

In our decision dismissing the appeal, we questioned the Petitioner's eligibility regarding the following additional issues: (1) the credibility of the Petitioner's claim regarding the Beneficiary's place of employment abroad; (2) whether the Beneficiary was employed abroad continuously for one year during the relevant three-year time period; (3) whether the evidence submitted with regard to the existence of the foreign entity was credible; and (4) whether the Petitioner submitted valid stock certificates to establish its ownership.

Although the Petitioner now disputes the Director's original grounds for denying the petition and our subsequent dismissal of the appeal and denial of the motion, it does not dispute or address our additional adverse findings, which bring into question not only the Petitioner's eligibility, but also the credibility of its claims and supporting evidence.

Because the Petitioner did not address the additional findings that were listed in our adverse decisions regarding the appeal and subsequent motion, it has not satisfied the motion requirements. As there are no facts or affidavits or other documentary evidence provided on motion regarding the additional grounds, the motion to reopen cannot be granted. Also, as the Petitioner has not addressed our additional adverse findings regarding issues concerning the credibility of the Petitioner's claims and supporting evidence or the Beneficiary's continuous employment abroad, the Petitioner has not established that we made those additional findings based on an incorrect application of law or USCIS policy.

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 the Petitioner had overcome the original bases for the denial, these motions would be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.