U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41184329

Date: MAR. 20, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a company operating a Chinese restaurant, seeks to employ the Beneficiary as its general manager 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 the record did not establish that the Beneficiary was employed abroad full-time by a qualifying organization for one continuous year in the three years preceding the date the petition was filed. The matter is now before us on appeal under 8 C.F.R. § 103.3.

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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification in a petition involving a new office, a qualifying organization must have employed the beneficiary in a managerial or executive capacity for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(3)(v)(B). In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id*.

The petitioner must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. This evidence must establish that the petitioner secured sufficient physical premises to house its operation and disclose the proposed nature and scope of the entity, its organizational structure, its financial goals, and the size of the U.S. investment. *See generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. EMPLOYMENT ABROAD FOR AT LEAST ONE CONTINUOUS YEAR

The regulation at 8 C.F.R. § 214.2(l)(3)(iii) clearly requires that the petition be accompanied by evidence that the beneficiary had been employed in an executive or managerial capacity for one continuous year in the three-year period "preceding the filing of the petition," or in the case of an extension of a L-1A nonimmigrant petition with a qualifying organization, the three-year period prior to the filing of the originally approved petition. *See generally* 2 *USCIS Policy Manual*, L.6(G)(2), https://www.uscis.gov/policy-manual.

SCOPS stated that since the petition was filed on June 17, 2025, the Petitioner was required to demonstrate that the Beneficiary was employed for one continuous year abroad between June 17, 2022, and June 17, 2025. The Petitioner indicated the Beneficiary was employed full-time abroad in a qualifying capacity as the general manager of [redacted] Restaurant (the Foreign Employer) from September 2020 to October 2023.[1] SCOPS reasoned that the Beneficiary's foreign employment prior to June 17, 2022, could not count towards demonstrating her qualifying foreign employment since it was outside the three years prior to the date the petition was filed. SCOPS further indicated that U.S. Citizenship and Immigration Service (USCIS) records reflected that the Beneficiary entered the United States on a B-2 nonimmigrant visitor visa on April 4, 2023, and therefore, that she was in the United States for approximately six months of her claimed qualifying foreign employment from April 2023 to October 2023. SCOPS stated that the evidence reflected that the Beneficiary could only have been employed for nine months and 18 days between June 17, 2022, and her entry into the United States as a nonimmigrant on April 4, 2023.

On appeal, the Petitioner asserts that periods of lawful employment in the United States with a qualifying organization do not interrupt the continuity of the Beneficiary's previous foreign employment. The Petitioner indicates that the Beneficiary had a L-1A nonimmigrant new office petition approved on her behalf on December 18, 2023, a petition filed by a claimed wholly owned subsidiary of the Foreign Employer, [redacted]. on September 27, 2023.[2] The Petitioner asserts that the original approval of [redacted].'s L-1A petition serves as the point at which the three year "look-back period" for foreign employment eligibility should begin since they are an affiliate of the Petitioner. Therefore, the Petitioner contends that SCOPS erred in not taking into account the Beneficiary's qualifying employment with the Foreign Employer during 2020 and 2021, employment sufficient to fulfill the one continuous year of foreign employment.

A beneficiary must meet the one-year foreign employment requirement at the time that the petitioner files the L-1 nonimmigrant petition. The one-year foreign employment requirement ensures the continuity of a beneficiary's lawful employment with the same international qualifying organization,

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[1] SCOPS stated in a request for evidence (RFE) that the Beneficiary indicated in a DS-160, Nonimmigrant Visa Application, submitted with the U.S. Department of State (DOS) in January 2019 that she was employed with [redacted] since October 2011. SCOPS stated that this foreign employment conflicted with the Beneficiary's claimed employment with the Foreign Employer from October 1, 2018, to October 31, 2023, as reflected in the Form I-129, Petitioner for a Nonimmigrant Worker. In response to the RFE, the Petitioner asserted the Beneficiary was employed part-time with [redacted] and the Foreign Employer until she took on a fulltime, qualifying, role with the Foreign Employer in September 2020.

[2] [redacted] later filed a petition to extend the Beneficiary's L-1A status on October 23, 2024, but this was denied by SCOPS on February 25, 2025.

consistent with the purpose of the intracompany transferee nonimmigrant classification. The proper reference point for determining the one-year foreign employment requirement is the date the petitioner files the initial L-1 petition on the beneficiary's behalf, the starting point in the alien's application for admission in L-1 status. When the petitioner requests an extension of L-1 status, the one-year requirement must have been met at the time of the filing of the initial L-1 petition. *Id.* In addition, a petitioner cannot use any time that the beneficiary spent in the United States to meet the one-year foreign employment requirement. The continuous year of foreign employment must be qualifying; that is, the petitioner must demonstrate that the beneficiary worked abroad during that period in a managerial, executive, or specialized knowledge capacity. *See generally 2 USCIS Policy Manual*, L.6(G)(1), https://www.uscis.gov/policy-manual.

As discussed, the Petitioner contends that the Beneficiary's three-year period to calculate foreign employment is three years prior to the approval of her L-1A nonimmigrant petition filed on her behalf by an asserted wholly owned subsidiary on September 27, 2023. However, the evidence submitted by the Petitioner does not sufficiently demonstrate that [redacted] is a wholly owned subsidiary of the Foreign Employer and a qualifying organization as claimed.

Regulation and case law confirm that ownership and control are the factors that must be examined in determining whether a qualifying relationship exists between United States and foreign entities. *See, e.g.*, *Matter of Church Scientology Int'l*, 19 I&N Dec. 593 (Comm'r 1988); *Matter of Siemens Med. Sys., Inc.*, 19 I&N Dec. 362 (Comm'r 1986); *Matter of Hughes*, 18 I&N Dec. 289 (Comm'r 1982). Ownership refers to the direct or indirect legal right of possession of the assets of an entity with full power and authority to control; control means the direct or indirect legal right and authority to direct the establishment, management, and operations of an entity. *Matter of Church Scientology Int'l*, 19 I&N Dec. at 595.

Here, the Petitioner submitted only a stock certificate specific to [redacted], reflecting that 200 shares "at 0 par value" were issued to "[redacted]." This stock certificate is incomplete, not including the full name of the asserted owner of the stock. Further, the stock certificate reflected that shares in [redacted] were issued for no apparent consideration, leaving question as to whether the Foreign Employer had full ownership and control over this entity. The Petitioner must resolve discrepancies and ambiguities 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).

Furthermore, as general evidence of a petitioner's claimed qualifying relationship, stock certificates alone are not sufficient evidence to determine whether a stockholder maintains ownership and control of a corporate entity. The corporate stock certificate ledger, stock certificate registry, corporate bylaws, and the minutes of relevant annual shareholder meetings must also be examined to determine the total number of shares issued, the exact number issued to the shareholder, and the subsequent percentage ownership and its effect on corporate control. In addition, a petitioning company must disclose all agreements relating to the voting of shares, the distribution of profit, the management and direction of the subsidiary, and any other factor affecting control of the entity. *See Matter of Siemens Med. Sys., Inc.*, 19 I&N Dec. at 365. Without full disclosure of all relevant documents, we are unable to determine the elements of ownership and control in [redacted], and in turn, whether it is wholly owned by the Foreign Employer. The submitted evidence does not sufficiently establish that [redacted] is a qualifying organization as asserted by the Petitioner.

As such, we must conclude that the three-year period for qualifying foreign employment in the current matter is the three years prior to the date the petition was filed on June 17, 2025, or between June 16, 2022, and June 16, 2025. *See generally* 2 *USCIS Policy Manual*, L.6(G)(4), https://www.uscis.gov/policy-manual (indicating that the three-year period begins the day prior to the date the petition was filed). However, as discussed by SCOPS, USCIS records reflect that the Beneficiary entered the United States on a B-2 nonimmigrant visitor visa on April 4, 2023, and the Petitioner does not dispute this fact. The Beneficiary was in the United States for approximately six months of her claimed qualifying foreign employment from April 2023 to October 2023, and this time cannot be counted for the purposes of her qualifying foreign employment. As such, the Beneficiary could only have been employed abroad with the Foreign Employer for nine months and 19 days between June 16, 2022, and her entry into the United States as a nonimmigrant on April 4, 2023. Therefore, the Petitioner did not establish that the Beneficiary was employed abroad full-time by a qualifying organization for one continuous year in the three years preceding the date the petition was filed.

In addition, discrepancies in the submitted evidence related to the Beneficiary's asserted foreign employment leave question as to whether she was employed with the Foreign Employer as claimed. As discussed, SCOPS indicated in an RFE that the Beneficiary disclosed in a DS-160 in January 2019 that she was employed by [redacted] since October 2011, employment conflicting with her claimed employment with the Foreign Employer it asserted began in late 2017. As noted, in response to the RFE, the Petitioner claimed that the Beneficiary was employed part-time with [redacted] and the Foreign Employer until she took on a full-time, qualifying, role with the Foreign Employer in September 2020. However, the Petitioner also submitted a resume in support of the petition that did not show the Beneficiary's asserted part-time employment with [redacted], but employment with yet another foreign employer, [redacted], as a "partner" from 2017 to 2020. The resume stated that during this apparently conflicting employment with [redacted] she was engaged in "aquaculture, forestry development, and food services operations" providing "strategic support for hospitality-related functions of the company."

The Petitioner questionably did not include this apparent employment with [redacted] in her employment history submitted in response to the RFE, and now on appeal. Although this conflicting employment does not date from the qualifying three-year foreign employment period dating from the date the current petition was filed, this additional discrepancy casts additional doubt on the Beneficiary's employment abroad. Again, the Petitioner must resolve inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 582, 591-92. 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, for the foregoing reasons, the Petitioner has not established that the Beneficiary was employed abroad full-time by a qualifying organization for one continuous year in the three years preceding the date the petition was filed.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). 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.