U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41635887

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, which operates fast food restaurants, seeks to temporarily employ the Beneficiary as chief operating officer of its new office under the L-1A nonimmigrant classification for intracompany transferees.[1] *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.

SCOPS denied the petition, concluding that the record did not establish that the Beneficiary has been employed abroad in a managerial or executive capacity. 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. LAW

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). 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 filing of the petition. 8 C.F.R. § 214.2(l)(3)(v)(B). In addition, 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* 8 C.F.R. § 214.2(l)(3)(v)(A) and (C).

[1] State filing documents in the record show that the Petitioner's legal name is properly formatted as "[redacted]." The cover page of this decision shows the variant formatting used on Forms I-140 and I-290B.

II. ANALYSIS

The Petitioner filed the petition on January 6, 2025. The Beneficiary is the sole proprietor of a general store in India. The Petitioner asserts that the Beneficiary worked as the chief executive officer (CEO) of the store in India from 2021 until January 2023, when he entered the United States to work for an unrelated employer in H-1B nonimmigrant status. That U.S. employment continued at the time of this petition's filing. The Beneficiary purchased a controlling 51% interest in the petitioning entity in October 2024.

The Petitioner specified that the Beneficiary's "CEO position with the entity abroad . . . was primarily executive in nature," and therefore we need not consider the separate requirements of a managerial capacity. SCOPS determined that the Petitioner did not establish that the Beneficiary's employment abroad meets the requirements of an executive capacity.

"Executive capacity" means an assignment within an organization in which the employee primarily directs the management of the organization or a major component or function of the organization; establishes the goals and policies of the organization, component, or function; exercises wide latitude in discretionary decision-making; and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization. Section 101(a)(44)(B) of the Act.

To show that a beneficiary's experience abroad is eligible for L-1A nonimmigrant visa classification as an executive, the petitioner must show that the beneficiary performed all four of the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(B) of the Act. If a petitioner establishes that the position meets all four elements set forth in the statutory definition, the petitioner must then prove that the beneficiary was *primarily* engaged in executive duties, as opposed to ordinary operational activities alongside the foreign employer's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether the beneficiary's duties were primarily executive, we consider the description of the job duties, the company's organizational structure, the duties of the beneficiary's subordinate employees, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding the beneficiary's actual duties and role in the business.

If staffing levels are used as a factor in determining whether an individual acted in an executive capacity, we must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act.

In denying the petition, SCOPS noted that the Beneficiary's authority over the foreign business does not necessarily mean that his position met all the requirements of an executive capacity. SCOPS concluded that the submitted job descriptions for the Beneficiary and his subordinates at the foreign business were "vague and general," often containing "no real meaningful reference to the foreign business and its activities." SCOPS concluded that the submitted job descriptions are not consistent with the size and structure of the foreign business. SCOPS also cited apparent discrepancies in the descriptions, and concluded that the Petitioner did not corroborate key claims. SCOPS therefore concluded that the Petitioner had "not established, by a preponderance of the evidence, that the beneficiary has been employed abroad in an executive capacity."

On appeal, the Petitioner contends that SCOPS gave too much weight to the small size of the foreign business, and maintains that a petitioner's evidence need not be free of doubt to establish eligibility by a preponderance of the evidence.

Upon review of the entire record, we adopt and affirm SCOPS' determination that the Petitioner did not establish that the Beneficiary's employment abroad met the requirements of an executive capacity. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

We have reviewed the record and agree with SCOPS' determination. The Petitioner's arguments and assertions on appeal do not show that SCOPS erred in its conclusions.

On appeal, the Petitioner asserts that even a small company can have executive-level leadership. But SCOPS did not base the denial on the small size of the foreign business. Rather, SCOPS concluded that "the descriptions of the beneficiary's and his subordinates' duties appear to describe positions in a larger, more complex organizational structure than the one that is supported by the evidence." For instance, the Petitioner claimed that the inventory manager's first responsibility is to "[d]irect and [s]upervise the warehouse team." SCOPS noted that "the evidence does not establish that the foreign organization has a 'warehouse team' for the Inventory Manager to direct and supervise for any significant amount of time."

As such, the issue was not the size of the foreign business as such, but rather the credibility and reliability of the Petitioner's claims regarding that business. SCOPS stated: "the descriptions of the beneficiary's subordinates are general and do not appear to be accurate and credible." SCOPS therefore concluded that the Petitioner had "not established that the foreign company had a 'management' for the beneficiary to direct between January 6, 2022, and January 19, 2023."

The Petitioner cites case law on appeal to support the argument that the presence of "some doubt" does not prevent a conclusion that the Petitioner's claims are "probably true" and thereby satisfy the preponderance of the evidence. But where the record establishes such doubt, we must consider the quality of the evidence offered in support of the petition. Credibility is one of the factors we consider when examining a given piece of evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

Many of the Petitioner's material claims are supported only by internally-generated documents that lack evident means of independent verification and corroboration. Review of the record shows a series of discrepancies and anomalies that, in the aggregate, lead us to conclude that the Petitioner's evidence lacks sufficient credibility to meet the Petitioner's burden of proof. Material inconsistencies that the Petitioner has not resolved with independent, objective evidence may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the petition. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). We will discuss examples of these issues below.

The Petitioner claimed that the Beneficiary spent 40% of his time abroad overseeing the foreign entity's "Accounts Department." This claimed department apparently consisted of one accountant. The record is inconsistent regarding the nature of the accountant's engagement with the foreign business. The Petitioner referred to the accountant as a "third-party," indicating that the accountant is

a contractor rather than an employee. This is consistent with the Petitioner's submission of three invoices from the accountant, identified on these documents as a "Tax Consultant." The invoices, respectively dated March 31 of 2022, 2023, and 2024, billed the foreign employer ₹20,000 per "financial year." But alongside these invoices is a copy of a purported April 2022 "Employment Contract" between the same accountant and the foreign entity, indicating that the accountant would be an "employee" with "full-time employment."

The accountant's April 2022 contract states: "The Employee will be paid a salary of ₹20000 per year." This amount is consistent with the annual invoices, but it is much lower than the operations manager's pay receipts from 2024, which show a gross salary of ₹11,100 per month, equal to ₹133,200 per year.

A submitted copy of the operations manager's 2024-25 tax return shows total income of ₹585,930 for the year. The operations manager's annual salary of ₹133,200, extrapolated from the pay receipts, is less than a quarter of that total. Questions therefore arise as to the source(s) of the other income, and whether the operations manager position was truly full-time.

The Petitioner submitted copies of sales agreements, purchase agreements, and service agreements between the foreign business and customers or suppliers in India. The Beneficiary signed these agreements on behalf of the foreign business. All these documents are dated 2024, after the Beneficiary entered the United States, and therefore they cannot attest to the Beneficiary's responsibilities or duties while he was employed outside the United States.

Also, after entering the United States in early 2023, the Beneficiary has been employed by a U.S. company unrelated the Petitioner and to the Beneficiary's business in India. A December 14, 2024 statement attributed to the Beneficiary himself indicates that he "previously served as Chief Executive Officer and Owner of" the business in India "from April 1, 2021 to January 20, 2023"; that date range appears twice in the document. Neither the Petitioner nor the Beneficiary explained why he continued to sign documents for the store in India more than a year after he entered the United States to work for an unrelated employer.

The aforementioned December 2024 statement attributed to the Beneficiary raises yet another question. The statement includes the Beneficiary's name and is written in the first person, including the phrase "I can confirm that I served as Chief Executive Officer and Owner of my company." But the statement ends with the printed name and signature of the operations manager instead of the Beneficiary. This major discrepancy raises serious questions about the circumstances under which the document was both prepared and signed.

Another document purportedly signed by the operations manager, a job description dated July 10, 2025, shows a signature that is visibly very different from every other instance of that person's signature in the record. This discrepancy raises questions about the document's origins.

On appeal, the Petitioner submits additional documents, such as meeting minutes and performance appraisals, intended to provide more details about the Beneficiary's employment abroad and to document his activities there. Because the Petitioner previously submitted questionable materials, and the new documents provide no evident means of independent verification, these materials have minimal weight.

One of the new documents purports to be "Meeting Notes," dated February 15, 2021 in two places. The document identifies the Beneficiary as the "Owner" of the store.

But the Petitioner's previous submissions consistently indicated that the Beneficiary became the store's owner on [redacted] 2021. That date appears in several statements from the Petitioner; on the Beneficiary's own résumé; and on one of the relatively few independent documents in the record, a Registration Certificate issued by the Government of India acknowledging the Beneficiary as the proprietor of the business. Given these repeated, specific attestations that the Beneficiary became the store's owner on [redacted], 2021, the new submission of a document purporting to show an earlier ownership date raises grave questions about the credibility and origin of that document and, by association, other documents from the same source. *See Matter of Ho*, *supra*, at 591-92.

These discrepancies diminish the credibility of the documents, and thus the weight we can give to them as evidence. SCOPS previously noted that many of the Petitioner's claims ought to be readily amenable to independent corroboration, but the Petitioner has submitted little in the way of such evidence. We agree with SCOPS that the Petitioner has not submitted sufficient credible documentary evidence to meet its burden of proof.

III. CONCLUSION

The Petitioner has not credibly established that the Beneficiary's employment abroad meets the requirements of an executive capacity. We will therefore dismiss the appeal.

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.