U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16665428

Date: MAY 7, 2021

Motions on Administrative Appeals Office Decision

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

The Petitioner, an operator of a plastics and scrap-metal business, seeks to continue temporarily employing the Beneficiary as its executive under the L-1A nonimmigrant visa 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 Director of the California Service Center denied the petition and dismissed the Petitioner's following three combined motions to reopen and reconsider. The Director concluded that, contrary to requirements for the requested visa category, the Petitioner did not establish the Beneficiary's employment abroad, or proposed work in the United States, in a managerial or executive capacity. We summarily dismissed the Petitioner's appeal, finding that the company did not specify the basis of its challenge. *See* 8 C.F.R. § 103.3(a)(1)(v). We then dismissed the Petitioner's following combined motions to reopen and reconsider. *See In Re: 10742645*, (AAO Sept. 23, 2020).

The matter is before us again on the Petitioner's combined motions to reopen and reconsider. The company bears the burden of establishing eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motions.

I. MOTION CRITERIA

A motion to reopen must state new facts supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In contrast, a motion to reconsider must establish that the challenged decision misapplies law or USCIS policy based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant motions that meet these requirements and establish eligibility for the requested benefit.

[1] The approval of the Petitioner's prior petition allowed the company to employ the Beneficiary at a "new office," an organization that had been doing business in the United States for less than one year. *See* 8 C.F.R. § 214.2(l)(1)(ii)(F) (defining the term "new office"). U.S. Citizenship and Immigration Services (USCIS) adjudicated this petition under 8 C.F.R. § 214.2(l)(14)(ii), which contains special rules for extending the validity of a L-1 visa petition for a new office.

II. MOTION TO REOPEN

Contrary to 8 C.F.R. § 103.5(a)(2), the Petitioner's motion to reopen neither states new facts nor includes supporting, documentary evidence. Because the motion does not meet applicable requirements, we must dismiss it. 8 C.F.R. § 103.5(a)(4).

III. MOTION TO RECONSIDER

The Petitioner's motion to reconsider asserts that, when denying the petition, the Director overlooked evidence and ignored a precedent decision.

Notwithstanding the alleged misapplications of law, we must dismiss the motion because it does not challenge our most recent decision. In dismissing the Petitioner's prior combined motions to reopen and reconsider, we found that the company did not demonstrate an error in our summary dismissal of its appeal. *In Re: 10742645*, *supra*. The current motion to reconsider asserts errors in the Director's denial of the underlying petition, but not in our most recent decision which stems from the appellate, summary denial. If the Petitioner wishes to challenge the petition's denial grounds in the future, the company must first demonstrate that we erred in summarily dismissing its appeal.

IV. CONCLUSION

The motion to reopen neither states new facts nor includes supporting, documentary evidence. The motion to reconsider does not assert errors of law or fact in our most recent decision.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.