U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF U.S.J-R-X-C-E- LLC

DATE: MAY 10, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, described as a provider of "culture exchange services," seeks to temporarily 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.

The Director of the California Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity. We dismissed the Petitioner's subsequent appeal and further found that the Petitioner did not establish that it has a qualifying relationship with the Beneficiary's foreign employer. The matter is now before us on a motion to reconsider.

On motion, the Petitioner submits a brief and additional evidence in support of its claim that the Beneficiary will be employed in a managerial or executive capacity, but does not address our adverse finding regarding the Petitioner's qualifying relationship with the Beneficiary's foreign employer.

Upon review, we will deny the motion.

I. MOTION REQUIREMENTS

To merit reopening or reconsideration, a petitioner must meet the formal filing requirements (such as, for instance, submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee), and show proper cause for granting the motion. 8 C.F.R. § 103.5(a)(1).

A motion to reconsider must establish that we based our decision on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. A petitioner must support its motion to reconsider with a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services (USCIS) or Department of Homeland Security policy. 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. ANALYSIS

The Petitioner has not shown proper cause for reconsideration. Although the Petitioner submits a brief in support of its motion to reconsider, it does not state the reasons for reconsideration, does not cite to appropriate statutes, regulations, or precedent decisions, and does not establish that our prior decision was based on an incorrect application of law or policy. The "Analysis" section of the Petitioner's brief is copied verbatim from its previously-submitted appellate brief. We already addressed those arguments in our decision dismissing the Petitioner's appeal. The Petitioner does not address the specific findings we made with respect to the Beneficiary's employment capacity in the United States.

Further, as noted, the Petitioner does not acknowledge, much less attempt to overcome, our determination that the evidence of record does not establish that the Petitioner has a qualifying relationship with the Beneficiary's foreign employer. The Petitioner has not established that this conclusion was based on an incorrect application of law or policy.

Finally, we acknowledge that the Petitioner has submitted new evidence in support of its motion to reconsider. We do not consider new facts or evidence in a motion to reconsider.[1] Therefore, we will not address the newly submitted evidence.

For these reasons, the Petitioner has not met the applicable requirements for a motion to reconsider.

ORDER: The motion to reconsider is denied.

Cite as *Matter of U.S.J-R-X-C-E- LLC*, ID# 1256895 (AAO May 10, 2018)

[1] A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). The Petitioner did not indicate that it intended to file a combined motion to reopen and reconsider.