U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 6575080

Date: NOV. 7, 2019

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (L-1A)

The Petitioner, describing itself as an oil and gas merchandising and property management company, seeks to extend the Beneficiary's temporary employment as its vice president 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 an executive or managerial capacity.

The Director, California Service Center, denied the petition concluding that the Petitioner did not establish that Beneficiary would be employed in a managerial or executive capacity under the extended petition.

The matter is now before us on appeal. On the Form I-290B, Notice of Appeal or Motion, the Petitioner marked Box 1.b. in Part 2, indicating that it would submit a brief and/or additional evidence to this office within 30 calendar days of filing the appeal. The record reflects that the Petitioner has not submitted a brief or any additional evidence since filing the appeal more than 30 days prior. Accordingly, the record will be considered complete as presently constituted.

Upon review, we will summarily dismiss the appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

As noted, the Petitioner has not provided a brief or additional evidence in support of the appeal. The Petitioner only submitted a generic statement with the Form I-290B indicating that the Director "erred;" and that they "did not consider the petitioner's evidence…[and] failed to provide a well-reasoned analysis." Similarly, the Petitioner vaguely stated that the Director's decision was "subjective, arbitrary, and capricious" and that the Director's conclusion "goes against the evidence and the legal definition."

The Petitioner has not specifically identified any erroneous conclusion of law or statement of fact as a basis for the appeal, but only provided generic statements on appeal that do not specifically address why the Director's conclusion was in error. For instance, in denying the decision, the Director pointed to the Beneficiary's duty description, analyzed it in detail, and concluded that it provided insufficient detail and little insight into her role.[1] The Director further noted that the Beneficiary's duty description provided few specifics, provided no context within the Petitioner's specific business and operations, and that it did not sufficiently demonstrate that she would act in a managerial or executive capacity. In fact, the Director attempted to address this deficiency in a request for evidence (RFE) that pointed to the generic nature of the Beneficiary's duties and requested a duty description with concrete detail as to her daily managerial or executive duties. In response, the Petitioner only responded that "[the Petitioner respectfully submit[s] that the Service's observation that the description of the beneficiary's job duties is too general and vague goes against the record of these proceedings." As such, the Petitioner provided no additional detail as to the Beneficiary's previous or proposed duties under the extended petition as requested.

Upon review, we agree with the Director's assessment of the Beneficiary's duties. The Petitioner did not submit a sufficiently detailed duty description describing the Beneficiary's day-to-day managerial or executive-level duties to credibly establish that she devoted her time primarily to qualifying tasks as of the date the petition was filed. The Beneficiary's duty description includes several generic duties that could apply to any manager or executive acting in any business or industry and they do not provide insight into the actual nature of her role. The Petitioner provided insufficient examples and supporting documentation to demonstrate the Beneficiary's performance of qualifying duties, such as "operational policies and procedures" she set, "sales and marketing strategies" she put in place, "logistics or carriers" she supervised, customers she worked with, or "logistics management policies and procedures" she implemented.

Likewise, the Petitioner did not detail or document risks the Beneficiary mitigated, "financial policies" she established, "complex agreements" she negotiated, funds she allocated, "strategic alliances" she formed, or "acquisition strategies" she developed. In fact, the record includes no documentary evidence to substantiate the Beneficiary's daily activities or her delegation of duties to her claimed subordinates. This lack of detail is notable as the Petitioner asserts that the Beneficiary has been acting as its vice president for nearly five since August 2013.[2] Specifics are clearly an important indication of whether a beneficiary's duties are primarily managerial or executive in nature, otherwise meeting the definitions would simply be a matter of reiterating the regulations. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990).

A petitioner filing an appeal is required to provide a statement that specifically identifies an erroneous conclusion of law or fact in the decision being appealed. For instance, the Petitioner did not specifically address the Director's conclusion that the Beneficiary's duties were generic and insufficient in response to the RFE and again does not specifically address this issue on appeal. It only vaguely labels the Director's decision as not "well-reasoned," as "subjective, arbitrary, and capricious," and "against the evidence and the legal definition." However, the Petitioner does not

[1] We note that this was only one evidentiary deficiency addressed by the Director in the decision. Given the lack of a sufficient statement on the appeal, a brief, or additional evidence, we decline to address the other deficiencies on the record.
[2] The petition was filed on May 22, 2018.

submit a brief, evidence, or other statements specifically articulated or demonstrating why this is the case. Therefore, consistent with 8 C.F.R. § 103.3(a)(1)(v), we will summarily dismiss the appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).