U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF 4RR-E-I- CORP

DATE: NOV. 15, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, described as an exporter of construction equipment, seeks to continue the Beneficiary's temporary employment 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 Vermont Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner will employ the Beneficiary in a managerial or executive capacity. We then denied two consecutive motions – first, a motion to reopen and later, a motion to reconsider. The matter is now before us on a motion to reopen.

On motion, the Petitioner provides a "Statement of Jurisdiction" explaining how it met all basic filing requirements. It also offers additional evidence in support of the motion to reopen.

Upon review, we will deny the motion to reopen.

I. REQUIREMENTS FOR A MOTION TO REOPEN

A motion to reopen is based on documentary evidence of *new facts*. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). Reasserting previously stated facts or resubmitting previously provided evidence does not constitute "new facts."[1] We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen the proceeding to instances where the Petitioner has shown "proper cause" for that action. Thus, to merit reopening, a petitioner must not only meet the formal filing requirements (such as submission of a properly completed Form

[1] We note that the Petitioner has submitted several documents containing information that was previously submitted prior to the denial, in support of the appeal, or in support of its previously filed motions. While we have reviewed and considered all of the evidence submitted in support of the instant motion, only evidence that was not previously submitted will be specifically addressed in this decision.

I-290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion. We cannot grant a motion that does not meet applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

II. ANALYSIS

The primary issue in this matter is whether the Petitioner has submitted new relevant facts, supported by credible evidence, to overcome the adverse findings in our prior decision denying the motion to reconsider.[2] The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing (in this case, August 2016) and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

As a preliminary matter, we note that the review of any motion is narrowly limited to the basis for the prior adverse decision. Here, the subject of the prior decision was limited to our denial of the Petitioner's motion to reconsider. Thus, the new facts in support of the instant motion must address the specific basis for our denial of the Petitioner's motion to reconsider. Here, however, the Petitioner offers evidence that addresses the basis for Director's original denial of the petition rather than our reasons for denying the motion to reconsider.

Furthermore, the Petitioner has not offered new facts that are relevant to the issue of its eligibility at the time of filing. Although the current motion includes newly submitted evidence in the form of 2017 tax documents and an updated organizational chart that reflects employees hired after the filing of the petition, such evidence is not relevant for the purpose of establishing the Petitioner's eligibility *at the time of filing* and therefore it will not be addressed. The Petitioner also offers a company letter, employee job duty breakdowns, and a "Certification Letter" in support of this motion. However, all three documents are identical in content to evidence that was previously provided at various stages in the proceeding. As these submissions offer no new facts, the do not meet the requirements of a motion to reopen.

III. CONCLUSION

For the reasons discussed above, the Petitioner has not shown proper cause for reopening.

ORDER: The motion to reopen is denied.

Cite as *Matter of 4RR-E-I- Corp.*, ID# 1815828 (AAO Nov. 15, 2018)

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[2] 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).