U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 18984810

Date: NOV. 23, 2021

Appeal of California Service Center Decision

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

The Petitioner seeks to temporarily employ the Beneficiary as the "president" of its new office[1] under the L-1A nonimmigrant classification for intracompany transferees. 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 that the Beneficiary had one continuous year of qualifying employment abroad during the three years preceding the filing of the petition and that the Beneficiary had been employed abroad in a managerial or executive capacity. The matter is now before us on appeal. The Petitioner bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence.[2] We review the questions in this matter *de novo*.[3]

Upon *de novo* review, we conclude that the record is sufficient to establish that the Beneficiary was employed for one continuous year as an executive for the foreign employer. The record shows that the Beneficiary spent more than one-year physically working for the foreign entity within the three years of filing the instant petition.[4] The record also includes sufficient evidence to establish that more likely than not, the Beneficiary worked for the qualifying foreign entity in an executive capacity. The Petitioner's evidence, including additional evidence submitted on appeal is sufficient to overcome the Director's determination on these issues.

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[1] 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). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation no more than one year within the date of approval of the petition to support an executive or managerial position.

[2] *See* Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

[3] *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015).

[4] The Beneficiary's trips to the United States in a non-working, nonimmigrant status neither count towards or against the one-year continuous foreign employment requirement.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden.

ORDER: The appeal is sustained.