U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 12064846

Date: NOV. 27, 2020

Motions on Administrative Appeals Office Decision

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

The Petitioner seeks to employ the Beneficiary as manager of an Internet café that the company plans to operate in the United States. The Petitioner requests the Beneficiary's classification under the L-1A nonimmigrant visa category for intracompany managers and executives. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

The Director of the Vermont Service Center denied the petition and dismissed the Petitioner's following motion to reconsider. The Director concluded that the Petitioner did not demonstrate the Beneficiary's employment abroad - or her proposed U.S. work - in the claimed, managerial capacity. Agreeing with the Director, we dismissed the Petitioner's appeal. *See Matter of M-E-, Inc.*, ID# 1988534 (AAO Aug. 5, 2019). The Petitioner then submitted another "appeal," which we rejected for lack of jurisdiction.[1]

The matter is before us again on the Petitioner's motions to reopen and reconsider. 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 demonstrate that our most recent decision misapplied law or U.S. Citizenship and Immigration Services (USCIS) policy based on the evidence at the time of the decision's issuance. 8 C.F.R. § 103.5(a)(3). We may grant motions that meet these requirements and demonstrate eligibility for a requested benefit.

II. MOTION TO REOPEN

The Petitioner's motion to reopen includes a copy of a shipping receipt regarding the company's submission of its second "appeal." The Petitioner asserts that our rejection notice states that the

[1] The Petitioner's Form I-290B, Notice of Appeal or Motion, indicated the company's filing of an "appeal," rather than a "motion." We lack authority to review our own decisions on appeal. *See* Department of Homeland Security (DHS) Delegation Number 0150.1 (effective Mar. 1, 2003) (granting appellate jurisdiction to us over only the matters listed in former 8 C.F.R. § 103.1(f)(3)(iii)). We therefore rejected the Petitioner's second "appeal."

company should have sent the submission to another USCIS office. The Petitioner argues that the shipping receipt demonstrates the appeal's submission to the proper office.

The Petitioner, however, misunderstands our rejection notice. We did not reject the Petitioner's "appeal" because the company sent it to the wrong USCIS office. Rather, the notice states that we rejected the submission because we lack appellate jurisdiction over our own decisions. *See* DHS Delegation Number 0150.1, *supra*. As stated in our rejection decision, the Petitioner may file motions if it disagrees with the decision. But we lack authority to review our own decisions on appeal.

The Petitioner's evidence on motion does not demonstrate our incorrect rejection of the company's most recent "appeal." We will therefore dismiss the motion to reopen.

III. MOTION TO RECONSIDER

The Petitioner asserts that it demonstrated the managerial nature of both the Beneficiary's employment abroad and her proposed work in the United States. These arguments, however, do not challenge our rejection of the Petitioner's most recent "appeal." Rather, the arguments address the merits of our appellate decision. The Petitioner's motions must challenge our most recent decision. *See Matter of Lopez*, 22 I&N Dec. 16, 17 (BIA 1998) (holding that an administrative tribunal retains jurisdiction over a motion filed after an appeal's rejection, but only to the extent the motion challenges the rejection). We will therefore also dismiss the motion to reconsider.

IV. CONCLUSION

Neither the motion to reopen nor the motion to reconsider demonstrates our incorrect rejection of the Petitioner's prior submission.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.