U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33815917

Date: OCT. 3, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a sports management and marketing firm, seeks to temporarily employ the Beneficiary as the marketing director of its new office 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 Petitioner filed the petition in October 2019. The Director of the California Service Center denied the petition in August 2019, concluding that the Petitioner did not establish that: (1) the Petitioner would support the Beneficiary in a managerial or executive position within one year of the petition's approval; and (2) the Beneficiary was employed abroad in a managerial or executive capacity. We dismissed a subsequent appeal in October 2020, concluding the record did not establish that: (1) the Petitioner had a qualifying relationship with the Beneficiary's foreign employer, and (2) the Beneficiary was employed abroad in an executive capacity. We reserved the issue of whether the new office would support the Beneficiary in a managerial or executive position within one year of the petition's approval. The Petitioner later filed two combined motions to reopen and reconsider, the first in November 2020, which we dismissed in August 2021, and the second in October 2021, which we dismissed in April 2022. The matter is now before us on a third combined motion to reopen and reconsider. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits copies of previously submitted documents. These materials do not establish new facts and therefore cannot show proper cause for reopening. The documents concern the Petitioner's attempt to reorganize its membership structure immediately following the October 2020 dismissal of its appeal. In our August 2021 decision dismissing the Petitioner's first motion, we explained that these late changes do not show that the Petitioner met the applicable requirements at the time of filing in 2018. The regulation at 8 C.F.R. § 103.2(b)(1) requires a petitioner to meet all

eligibility requirements at the time of filing the petition, continuing through the time of adjudication. The Petitioner has not addressed or overcome that determination.

The Petitioner also submits materials relating to other companies that the Beneficiary and his business associates formed in 2019 and 2021. As stated above, and as we have advised the Petitioner in prior decisions, the Petitioner must meet all eligibility requirements at the time of filing the petition. In this case, the materials about the other companies originated after the October 2018 filing date. Also, the Petitioner does not explain the relevance of these materials that relate to other companies, rather than to the petitioning entity. The formation of new companies in 2019 and 2021 does not establish that the petition was approvable when filed in 2018.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, that evidence does not establish eligibility or proper cause to reopen the proceeding. Therefore, the motion does not meet the requirements of a motion to reopen, and we will dismiss the motion. *See* 8 C.F.R. § 103.5(a)(4).

A motion to reconsider must establish that our prior decision was based 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. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner submits a brief discussing the changes to the company's membership structure and the Beneficiary's duties while employed abroad. Apart from a new date and updated case timeline on the first page and a new signature on the last page, the brief is identical to the brief filed with the second motion in 2021. That second motion brief, in turn, mostly repeated sections of the *first* motion brief from 2020. It does not address our conclusions in the 2022 decision, which is the only decision properly before us on motion.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). A motion to reconsider is not a process by which a party may submit, in essence, the same brief presented earlier and seek reconsideration by generally alleging error in the prior decision. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Here, the Petitioner has re-submitted the same brief from its prior motion, which we already addressed in our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, we will dismiss the motion because it does not meet the requirements of a motion to reconsider. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.