U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39701314

Date: OCT. 7, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a custom furniture design and manufacturing company, seeks to temporarily employ the Beneficiary as a furniture assembly and personnel preparations supervisor in 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).

SCOPS denied the petition on multiple grounds, concluding the record did not establish that the Beneficiary: 1) was employed abroad for one continuous year in the three preceding his application for admission, 2) was employed abroad in a managerial or executive capacity, and 3) would be employed in the United States in a managerial or executive capacity within one year. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification in a petition involving a new office, a qualifying organization must have employed the beneficiary in a managerial or executive capacity for one continuous year within three years preceding the beneficiary's application for admission into the United States. 8 C.F.R. § 214.2(l)(3)(v)(B). In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id*.

The petitioner must submit evidence to demonstrate that the new office will be able to support a managerial or executive position within one year. This evidence must establish that the petitioner secured sufficient physical premises to house its operation and disclose the proposed nature and scope

[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.

of the entity, its organizational structure, its financial goals, and the size of the U.S. investment. *See generally*, 8 C.F.R. § 214.2(l)(3)(v).

II. EMPLOYMENT WITH THE FOREIGN EMPLOYER IN A MANGERIAL CAPACITY

The Petitioner does not claim that the Beneficiary was employed in an executive capacity abroad. Therefore, we restrict our analysis to whether the Beneficiary was employed in a managerial capacity.

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization, or a department, subdivision, function, or component of the organization; supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization; has authority over personnel actions or functions at a senior level within the organizational hierarchy or with respect to the function managed; and exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. Section 101(a)(44)(A) of the Act.

When examining the asserted foreign managerial capacity of a given beneficiary, we will review the petitioner's description of the job duties abroad. The petitioner's description of the foreign job duties must clearly describe the duties performed by the beneficiary and indicate whether such duties were in a managerial capacity. *See* 8 C.F.R. § 214.2(l)(3)(ii).

A. Duties

To be eligible for L-1A nonimmigrant visa classification as a manager, the Petitioner must show that the Beneficiary performed the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(A) of the Act. If the record does not establish that the foreign position meets all four of these elements, we cannot conclude that it was a qualifying managerial position.

If the Petitioner establishes that the foreign position meets all elements set forth in the statutory definition, the Petitioner must prove that the Beneficiary was *primarily* engaged in managerial duties, as opposed to ordinary operational activities alongside other foreign employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006). In determining whether a given beneficiary's foreign duties were primarily managerial, we consider the Petitioner's description of the job duties abroad, the foreign company's organizational structure, the duties of a beneficiary's subordinate employees abroad, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the foreign business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in the business abroad.

The Petitioner indicated that the Beneficiary worked as a contractor for the foreign employer and it explains his role as follows in the petition:

> [The Beneficiary] oversaw the production, restoration and assembly of custom made furniture. He has coordinated and executed furniture assemblies for high profile events, such as [redacted] He has trained and managed a team to ensure the highest quality

> and consider timely delivery. He has reinforced his reputation in the industry with meticulous craftsmanship and product management skills in order to maintain customer satisfaction.

SCOPS later issued a request for evidence (RFE) asking the Petitioner to submit a letter from the Beneficiary's asserted foreign employer explaining his managerial position abroad, including his typical managerial duties and the percentage of time he spent on each of his tasks. SCOPS further requested that the Petitioner clarify how the Beneficiary supervised the work for other supervisory, professional, and managerial employees and whether he had the power to hire and fire his subordinates or recommend similar personnel actions. SCOPS also asked the Petitioner to provide performance appraisals to substantiate his personnel authority with the foreign employer.

In response, the Petitioner indicated that the foreign employer and the Beneficiary have a "longstanding partnership." The Petitioner submitted a letter from the foreign employer stating that it had established a partnership with the Beneficiary in 2014 "for the setup of our showroom" and noting that he "brought his expertise in woodworking to train and guide our team in the installation of this crucial space for the launch of our store." The Petitioner emphasized the Beneficiary's 20 years of experience in woodworking, his "exceptional technical expertise" and his "unique ability to share knowledge, tailoring his guidance to the specific needs of our team." The foreign employer stated that the Beneficiary "introduced innovative techniques that are still used today, streamlining services and ensuring the quality of our operations." The Petitioner also submitted reference letters from the Beneficiary's colleagues and one such letter indicated that the Beneficiary trained this colleague to work with the foreign employer, "taking him into client homes to perform measurements, plan furniture, and [teaching him] how to design, measure, build, assemble, and deliver furniture that meets clients' expectations." Likewise, another similar letter from another foreign employer employee stated that the Beneficiary taught him the basics "from finishing furniture construction to operating an Edge Bander" showing him "how to perform precise and careful finishing, ensuring that pieces were not damaged during the process."

In concluding the Petitioner did not establish that the Beneficiary was employed in a managerial capacity abroad, SCOPS emphasized that he owned his own company and that the evidence reflected he was not an employee of his asserted foreign employer. SCOPS further stated that the Petitioner did not submit a requested foreign duty description for the Beneficiary.

On appeal, the Petitioner submits additional documentation it claims substantiates the Beneficiary's asserted foreign employment in a managerial capacity, including a contractor agreement between him and the foreign employer and evidence of monthly payments made by the foreign employer to the Beneficiary. The Petitioner also submits a foreign duty description for the Beneficiary reflecting the percentages of time he devoted to each of his tasks.

However, we may decline to consider new evidence submitted on appeal if the specific evidence was previously requested, or was required initial evidence under statute, regulation, or form instructions. We are not required to consider such evidence if the affected party was put on notice of the specific evidentiary requirement, given a reasonable opportunity to provide the evidence, and the evidence was reasonably available to the affected party at the time it was supposed to have been submitted. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on

appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)). SCOPS clearly requested in the RFE that the Petitioner submit a letter from his asserted foreign employer explaining his managerial position abroad, including his typical managerial duties and the percentage of time he spent on each of his tasks. The Petitioner did not provide this specifically requested foreign duty description its RFE response, as such, we will not consider it on appeal.

Regardless, the Petitioner has not sufficiently established that he primarily performed managerial duties while working abroad as a contractor for the foreign employer. The Petitioner emphasizes that he was engaged in non-qualifying operational tasks related furniture installation projects abroad for the foreign employer, including taking measurements and client sites and working alongside foreign employer employees in providing services to clients. Whether the Beneficiary is a managerial turns on whether the Petitioner has sustained its burden of proving that their duties are "primarily" managerial. *See* sections 101(a)(44)(A) of the Act. Here, the Petitioner does not credibly document what proportion of the Beneficiary's foreign duties were managerial functions and what proportion would be non-qualifying operational duties. The Petitioner discussed the Beneficiary's involvement with administrative or operational tasks but did not sufficiently quantify the time he spent on these duties as opposed to qualifying managerial tasks. For this reason, we cannot determine whether the Beneficiary primarily performed the duties of a manager while employed abroad. *See IKEA US, Inc. v. U.S. Dept. of Justice*, 48 F. Supp. 2d 22, 24 (D.D.C. 1999).

In contrast, the Petitioner did not sufficiently articulate and document the Beneficiary's qualifying managerial duties abroad. For instance, the Petitioner did not detail and document the timelines he set, the safety standards he put in place, standard operating procedures he implemented, quality standards he established, or the logistics and departments he coordinated with while employed by the foreign employer. Specifics are clearly an important indication of whether a beneficiary's foreign duties involve managerial duties, 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). In fact, the submitted contract between the Beneficiary and the foreign employer indicates that he worked for the foreign employer as a contractor primarily providing services to its clients. For example, the receipts provided by the foreign employer on appeal reflect that these payments were for the "assembly/disassembly of planned furniture." SCOPS also directly requested evidence of the Beneficiary's personnel authority, including performance appraisals or other similar evidence, that the Petitioner did not provide. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988).

Even though the Beneficiary may have performed some managerial tasks within the foreign organization, the fact that he managed or directed a portion of the foreign business does not necessarily establish eligibility for classification as an intracompany transferee in a managerial capacity within the meaning of section 101(a)(44)(A) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" managerial in nature. *Id.* The Beneficiary may have exercised discretion over some of the foreign employer's day-to-day operations and possessed some requisite level of authority with respect to discretionary decision-making; however, the foreign duties are not alone sufficient to establish that his actual duties abroad were primarily managerial in nature.

B. Staffing

The Petitioner did not identify his claimed subordinates while performing services for the foreign employer but indicates that he oversaw and managed "the processes related to custom cabinetry and installation." The Petitioner provides a duty description on appeal asserting that the Beneficiary engaged in "strategic leadership, operational management, team supervision, and quality assurance." The Petitioner further stated that the Beneficiary directed the work of assembly and installation teams and provided them with technical training.

The statutory definition of "managerial capacity" allows for both "personnel managers" and "function managers." *See* section 101(a)(44)(A) of the Act. Personnel managers are required to primarily supervise and control the work of other supervisory, professional, or managerial employees. Contrary to the common understanding of the word "manager," the statute plainly states that a "first line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional." *Id.* If a beneficiary directly supervises other employees, the beneficiary must also have the authority to hire and fire those employees, or recommend those actions, and take other personnel actions. 8 C.F.R. § 214.2(l)(1)(ii)(B)(*3*).[2]

The Petitioner did not sufficiently establish that the Beneficiary was employed as a personnel manager abroad. The Petitioner vaguely indicates that the Beneficiary oversaw assembly and installation teams while working as a contractor for the foreign employer. However, the Petitioner provides little detail on the subordinates he oversaw abroad and does not indicate whether these subordinates were supervisors, professionals, or managers, as requested by SCOPS in the RFE. In fact, as discussed, it appears that the Beneficiary was mainly engaged in non-qualifying operational tasks working alongside the Petitioner's assembly and installation teams; and as such, it appears likely he was acting as a first line supervisor of operational level employees. In addition, the Petitioner provided no supporting documentation to substantiate that the Beneficiary had personnel authority over the foreign employer's employees and it is questionable that he would have personnel authority over these employees while engaged as a contractor. Again, the Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. at 582, 591-92. Therefore, the Petitioner has not sufficiently established that the Beneficiary was employed as a personnel manager with the foreign employer.

For the foregoing reasons, the evidence reflects that SCOPS was correct in denying the petition as the Petitioner did not sufficiently establish that the Beneficiary was employed abroad in a managerial capacity.

ORDER: The appeal is dismissed.

[2] The Petitioner asserted that the Beneficiary oversaw subordinates while engaged by the foreign employer and does not contend that the Beneficiary qualified as a function manager. As such, we decline to analyze whether the Beneficiary would be eligible as a function manager.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.