U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39535987

Date: OCT. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner intends to operate a hospitality development and management business. It seeks to employ the Beneficiary temporarily as its "Chief Operating Officer/President" at its new office[1] in the United States under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that: 1) the Beneficiary was employed abroad for one continuous year of full-time employment within the three years preceding the filing of this petition; and 2) the Beneficiary's employment abroad was in a managerial or executive capacity. The matter is now before us on appeal pursuant to 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.

Further, we adopt and affirm SCOPS' conclusion that the record lacked sufficient evidence establishing that the Beneficiary was employed abroad in a managerial or executive capacity. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

After considering the evidence in the record, including multiple support letters and the foreign entity's organizational chart, SCOPS determined that the Petitioner did not adequately describe the Beneficiary's position abroad. SCOPS pointed out that despite being issued a request for evidence

[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.

where the Petitioner was notified of this evidentiary deficiency and asked to submit a list of the Beneficiary's foreign job duties, the Petitioner's response did not contain the requested information. We note that failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). Accordingly, because the Petitioner did not provide the requested job duty description, SCOPS concluded that the Petitioner did not establish that the Beneficiary's employment abroad was in a managerial or executive capacity.

On appeal,[2] the Petitioner incorrectly states that the grounds for the denial included failure by the Petitioner to establish that it has a qualifying relationship with the Beneficiary's foreign employer and that the new office would support an executive position within one year. As previously indicated, neither of these grounds was listed as a basis for denial, which focused entirely on the issue of the Beneficiary's foreign employment. To that end, the Petitioner states that the Beneficiary assumed the position of CEO, which involved "directing all critical functions including strategic planning, operations, and company policy" and that it "fits squarely within the executive definition." We disagree.

The fact that the Beneficiary managed or directed a business does not necessarily establish eligibility for classification as an intracompany transferee in a managerial or executive capacity within the meaning of section 101(a)(44) of the Act. By statute, eligibility for this classification requires that the duties of a position be "primarily" executive or managerial in nature. Sections 101(A)(44)(A) and (B) of the Act. While the Beneficiary may exercise discretion over a company's day-to-day operations and possess the requisite level of authority with respect to discretionary decision-making, his actual duties may not be primarily executive in nature. To make this determination, we rely on specific information about a beneficiary's actual daily tasks as an important indication of whether their duties are primarily executive in nature; 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).

As previously stated, the Petitioner was asked but did not provide the requested listing of the Beneficiary's foreign job duties. Instead, the Petitioner focused on the Beneficiary's placement within the organization and his level of discretionary authority over the business. While we agree that this information is relevant, it does not take the place of a detailed job description containing a list of the job duties the Beneficiary performed within the scope of the foreign business.

The Petitioner also argues that SCOPS applied the wrong evidentiary standard and "rejected relevant credible evidence." Again, we disagree. In fact, SCOPS stated that the evidence was considered "in its totality" and deemed the Petitioner's submissions insufficient to meet its burden of proof. Further, except where a different standard is specified by law, the "preponderance of the evidence" is the standard of proof governing immigration benefit requests. *See Matter of Chawathe*, 25 I&N Dec. at 375; *see also Matter of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Soo Hoo*, 11 I&N Dec. 151, 152 (BIA 1965). Accordingly, "preponderance of the evidence" is the standard of proof governing this petition. *See generally* 1 USCIS Policy Manual, E.4(B), https://www.uscis.gov/policy-manual. While the Petitioner asserts that sufficient evidence was provided to demonstrate eligibility

[2] Although the appeal brief is titled "Brief in Support of Motion to Reconsider," the Form I-290B, Notice of Appeal or Motion, shows that the Petitioner filed an appeal, not a motion. We will therefore treat the filing as an appeal.

for the L-1A nonimmigrant classification, the Petitioner does not further explain or identify a specific instance in which SCOPS applied a standard of proof other than the preponderance of evidence in denying the petition.

In sum, the Petitioner did not establish that the Beneficiary was employed abroad in an executive capacity as claim. Because the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments on the issue of whether the Beneficiary's employment abroad was at a qualifying organization. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

ORDER: The appeal is dismissed.

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.