U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF BCT-W- INC.

DATE: SEPT. 17, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a freight forwarding company, seeks to continue the Beneficiary's temporary employment as its financial manager 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 and issued a written decision denying the extension of stay the Petitioner requested on the Beneficiary's behalf. When requesting an extension of a previously approved L-1 petition, a petitioner must apply for the petition extension and the beneficiary's extension of stay concurrently on Form I-129, Petition for a Nonimmigrant Worker, and the service center director must make separate decisions on the merits of the petition and on the beneficiary's eligibility for an extension of stay. *See* 8 C.F.R. § 214.2(l)(15)(i). The Director issued a decision notifying the Petitioner that the requested extension of stay was denied because "[t]he nonimmigrant visa petition filed to extend classification of the [B]eneficiary under section 101(a)(15)(L) has been denied"; however, the record reflects that the Director did not issue a written decision on the merits of the petition.

When denying a petition, a director has an affirmative duty to explain the specific reasons for the denial. 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, the Director did not issue a written decision on the merits of the Form I-129 and therefore did not perform this duty.

Accordingly, the matter will be remanded to the Director for issuance of a decision.[1]

[1] We note that there is no appeal from the denial of an extension of stay filed on Form I-129, which is granted or denied at the service center director's discretion. *See* 8 C.F.R. § 214.1(c)(5). However, the Petitioner is clearly seeking to appeal the denial of the underlying petition on its merits.

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis, which, if adverse, shall be certified to us for review.

Cite as *Matter of BCT-W- Inc.*, ID# 1626748 (AAO Sept. 17, 2018)