U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10019411

Date: SEPT. 24, 2020

Appeal of California Service Center Decision

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

The Petitioner intends to import, market, and distribute "Colombian products" in the United States. It seeks to temporarily employ the Beneficiary as "manager" of 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). 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 concluding that the Petitioner did not establish, as required, that: (1) it had secured sufficient physical premises to house its new office; (2) the Beneficiary's employment abroad was in a managerial or executive capacity; and (3) the U.S. entity would support the Beneficiary in a managerial or executive capacity within one year of the petition's approval. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Petitioner did not establish that it had secured sufficient physical premises to house its new office. Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's arguments regarding the Beneficiary's foreign and proposed employment. *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).

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

[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.

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 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. SUFFICIENT PHYSICAL PREMISES

The issue to be addressed in this decision is whether the Petitioner submitted sufficient evidence showing that it had secured sufficient physical premises to house its new office as of the date this petition was filed. 8 C.F.R. § 214.2(l)(3)(v)(A).

In support of the petition, which was filed in April 2019, the Petitioner provided its articles of organization identifying [redacted] in [redacted], Florida as its "principal office" and its mailing address. The Petitioner did not provide evidence showing that at the time of filing it had secured the premises either at this address or at a different address from which it could conduct its intended business activities. Accordingly, the Director issued a request for evidence instructing the Petitioner to provide evidence addressing this evidentiary deficiency.

In response, the Petitioner provided bank statements and a bank letter indicating that the Petitioner's account with [redacted] was opened in July 2019. Both the bank statements and the bank letter show the Petitioner's mailing address as [redacted] in [redacted], California. The Petitioner also provided a September 2019 letter from [redacted] of [redacted] stating the following:

> Through this document I certify that we are receiving the correspondence from [the Petitioner], on behalf of [the Beneficiary], at address [redacted], [redacted] California.

In the denial decision, the Director acknowledged the Petitioner's submissions and determined that such submissions offered no meaningful insight as to whether the Petitioner secured sufficient physical premises to house its new office.

On appeal, the Petitioner provides an April 2020 letter from the Beneficiary in his capacity as manager, stating that "the company [] is working" and has paid wages to workers. The Beneficiary explains that despite the Petitioner being operational "it has been difficult for us to get a place for rent" and claims that "since November"[2] the Petitioner has been conducting its business in a space that has been sublet by [redacted] one of the Petitioner's "main clients" in [redacted] California. The

[2] Although the Petitioner did not specify the year of the referenced November date, given that the letter is dated April 2020 and the petition was filed in April 2019, it is reasonable to conclude that "since November" was intended to describe a business arrangement that commenced in November of 2019.

Petitioner does not, however, offer evidence in the form of a formal contract or agreement memorializing this claimed business arrangement with one of its "main clients." Furthermore, even if the Petitioner had provided sufficient evidence of this business arrangement, the fact that it claims the arrangement commenced in November 2019 indicates that the Petitioner had not secured sufficient physical premises as of the date this petition was filed in April 2019. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

In light of the deficiencies described above the Petitioner has not established that it had sufficient physical premises to house its business operation at the time of filing.

ORDER: The appeal is dismissed.