



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 19356357

Date: NOV. 28, 2022

Motion on Administrative Appeals Office Decision

Form I-140, Petition for Multinational Managers or Executives

The Petitioner, operating as a childcare center, seeks to permanently employ the Beneficiary as its president under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish, as required, that: 1) it had a qualifying relationship with the Beneficiary's former foreign employer; 2) the Beneficiary was employed in a managerial or executive capacity abroad prior to her entry into the United States as a nonimmigrant; 3) the Beneficiary would be employed in a managerial or executive capacity in the United States; and 4) it had the ability to pay the Beneficiary's proffered wage. We concluded that the Petitioner did not demonstrate that the Beneficiary was employed abroad in a managerial or executive capacity and dismissed the appeal. We explained that because the identified basis of ineligibility was dispositive of the appeal, we would not address the three remaining grounds in the Director's decision. The matter then came before us on a motion to reconsider, which we also dismissed. The matter is now before us on a motion to reopen.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the Petitioner's motion to reopen.

## **I. MOTION REQUIREMENTS**

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits U.S. Citizenship and Immigration Services' authority to reconsider or reopen a matter to instances where an applicant has shown "proper cause" for that action. A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit. Thus, to merit reopening, a petitioner must not only meet the formal filing requirements (such as submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct

fee), but also show proper cause for granting the motion. We cannot grant a motion that does not meet the applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

## II. ANALYSIS

As a preliminary matter, we note that the review of any motion is narrowly limited to the basis for the prior adverse decision. In this case, our prior adverse decision was the dismissal of the Petitioner's motion to reconsider. More specifically, we concluded that the Petitioner did not cite any precedent decisions or USCIS policy to support its argument that "[s]ize is not a relevant consideration" and that only the Beneficiary's job duties must be considered in assessing the managerial or executive capacity of the Beneficiary's foreign employment. We also pointed out that focusing exclusively on the Beneficiary's job duties would have been no less detrimental to the outcome in this matter, given that we found the Beneficiary's job description to have been deficient. Lastly, we pointed to precedent caselaw that supports our decision to dismiss the appeal based on only one of the grounds cited in the Director's decision – the Beneficiary's employment abroad – rather than addressing all four grounds. *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).

Accordingly, in order to determine whether this matter merits reopening, we will consider any new facts and supporting evidence that address our decision to dismiss the prior motion to reconsider.

In the present matter, the Petitioner argues that the Director's decision was incorrect and asserts that "the petition warranted approval." The Petitioner goes on to recite the statutory and regulatory criteria for multinational managers and executives and lists previously submitted evidence in to support of its claim that "the examining officer erred as a matter of fact and law" in denying the petition. In sum, the Petitioner reasserts previously stated facts and refers to previously submitted evidence, none of which constitutes as "new facts."

For the reasons discussed, the Petitioner has not shown proper cause for reopening and has not overcome the basis for dismissal of the appeal.

**ORDER:** The motion to reopen is dismissed.