



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

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

In Re: 21319877

Date: AUG. 4, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, a self-described trucking business, seeks to continue the Beneficiary's temporary employment as its chief executive officer under the L-1A nonimmigrant classification for intracompany transferees.¹ 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 Vermont Service Center denied the petition, concluding that the Petitioner did not establish that it would employ the Beneficiary in a managerial or executive capacity under the extended petition. We dismissed the Petitioner's subsequent appeal of that decision on the same ground and on the additional ground that the Petitioner did not establish, as required, that it was doing business at the time it filed this petition in February 2016. The Petitioner has since filed six consecutive motions to reconsider, and we have dismissed each motion. The matter is now before us on a seventh motion to reconsider.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion to reconsider.

I. MOTION REQUIREMENTS

A motion to reconsider must (1) state the reasons for reconsideration and establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and (2) establish that the decision was incorrect based on the evidence in the record of proceedings at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen or reconsider to instances where the Petitioner has shown "proper cause" for that action. Thus, to merit reopening or

¹ The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for the period February 27, 2015, until February 27, 2016. The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position.

reconsideration, 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 applicable requirements. *See* 8 C.F.R. § 103.5(a)(4).

II. ANALYSIS

As noted above, the Director denied the petition based on the determination that the Petitioner did not establish that it would employ the Beneficiary in a managerial capacity under the extended petition. We dismissed the appeal after reaching the same conclusion. Based on our *de novo* review of the record, we identified a second ground of ineligibility and concluded that the Petitioner did not establish that it was “doing business,” as defined at 8 C.F.R. § 214.2(l)(1)(ii)(H), at the time it filed this petition in February 2016. We have dismissed the Petitioner’s six subsequent motions to reconsider. Our prior decisions are part of the record of proceedings and are incorporated herein by reference.

As we noted in our prior decision, by regulation, the scope of a motion is limited to “the prior decision.” 8 C.F.R. § 103.5(a)(1)(i). In this case, the prior decision at issue is our decision dated December 16, 2021. In that decision, we stated that while the Petitioner broadly maintained that the Beneficiary would be employed in a managerial capacity and that the company was doing business as of February 2016, it did not reference specific reasons for our dismissal of its fifth motion. We also noted that to prevail in a motion to reconsider, the Petitioner cannot merely disagree with our conclusions, but rather it must demonstrate how we erred as a matter of law or policy in our immediate prior decision. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision.)

Accordingly, although we acknowledged that the Petitioner submitted a brief and copies of previously submitted evidence, we determined that the Petitioner did not directly address the conclusions we reached in our immediate prior decision or provide reasons for reconsideration of those conclusions. Likewise, the brief submitted in support of the current motion also lacks any cogent argument as to how we misapplied the law or USCIS policy in dismissing the prior motion to reconsider. Although the Petitioner highlights the Beneficiary’s skills and contributions to the company, it does not identify an error in our prior decision.

In light of the above, we conclude that this motion does not meet all the requirements of a motion to reconsider and must therefore be dismissed pursuant to 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.