



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

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

In Re: 20882853

Date: JUN 03, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, an operator of a scrap metal business, seeks to continue the Beneficiary's temporary employment as its "Executive" 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 Director of the California Service Center denied the petition and dismissed the Petitioner's following three combined motions to reopen and reconsider. The Director determined that the Petitioner did not establish that the Beneficiary was employed abroad, or would be employed in the United States, in a managerial or executive capacity, as required to establish eligibility for this classification. We summarily dismissed the Petitioner's appeal of that decision, concluding that it did not specify an erroneous conclusion of law or statement of fact in the Director's decision as a basis for the appeal. *See* 8 C.F.R. § 103.3(a)(1)(v). The Petitioner subsequently filed three combined motions to reopen and reconsider, which we dismissed. The matter is now before us again on a fourth combined motion to reopen and motion to reconsider.

The Petitioner bears the burden of establishing eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss both motions.

#### **I. MOTION REQUIREMENTS**

To merit reopening or reconsideration, a petitioner must meet the formal filing requirements and show proper cause for granting the motion. 8 C.F.R. § 103.5(a)(1).

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must (1) state the reasons for reconsideration and establish that the challenged decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and (2) demonstrate that the decision was incorrect based on the record at the time of the decision. 8 C.F.R. 103.5(a)(3).

## II. MOTION TO REOPEN

The Petitioner's motion includes a Form I-290B, Notice of Appeal or Motion, a brief, and a table of exhibits summarizing evidence that was previously provided. The Petitioner's brief does not state new facts nor is it supported by documentary evidence; therefore, its motion does not meet the requirements for a motion to reopen stated at 8 C.F.R. § 103.5(a)(2). Because the motion does not meet applicable requirements, we must dismiss it. 8 C.F.R. § 103.5(a)(4).

## III. MOTION TO RECONSIDER

In its brief in support of the instant motion, the Petitioner maintains that the Director erroneously denied the petition. The Petitioner contends that the Director overlooked evidence and failed to apply relevant case law in concluding that the Beneficiary was not employed abroad, and would not be employed in the United States, in a managerial capacity as defined at section 101(a)(44)(A) of the Act.

Notwithstanding the alleged misapplications of law, we must dismiss the motion because it does not address or challenge our most recent decision. The review of any motion is narrowly limited to the basis for the prior adverse decision. Here, although the Petitioner's brief on motion addresses the Director's denial of the underlying petition, the subject of the immediate prior decision was our dismissal of the Petitioner's third combined motion to reopen and reconsider; we have not issued a decision on the merits of the underlying petition because we summarily dismissed the Petitioner's appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v). None of the Petitioner's prior motions have included new facts demonstrating that the appeal should be reopened, nor have they established that our decision to summarily dismiss the appeal was based on an incorrect application of law or USCIS policy based on the record before us at the time of the decision.

The current motion to reconsider cites caselaw relevant to the grounds of the underlying denial of the petition, these citations are not relevant to our most recent decision which stems from our summary dismissal of the appeal. As we have consistently concluded in dismissing the last three motions, if the Petitioner wishes to challenge the petition's denial in the future, it must first demonstrate that we erred in summarily dismissing its appeal. The Petitioner has not provided probative reasons establishing that our prior decision was based on an incorrect application of law or policy, nor has it shown proper cause to reconsider the previous decision. Accordingly, we will dismiss the motion to reconsider.

## IV. CONCLUSION

For the reasons discussed, the Petitioner has not established proper grounds for reopening or reconsideration. Accordingly, the motions to reopen and reconsider will be dismissed.

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

**FURTHER ORDER:** The motion to reconsider is dismissed.