U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27292501

Date: JUNE 29, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (L-1A Manager or Executive)

The Petitioner intends to engage in "retail and wholesale activities." It seeks to employ the Beneficiary temporarily as the "Deputy CEO" of its new office[1] under the L-1A nonimmigrant classification for intracompany transferees who are coming to be employed in the United States in a managerial or executive capacity. 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, citing two grounds as bases for denial. First, the Director concluded that the Petitioner did not establish that the Beneficiary was employed abroad in a managerial or executive capacity, pointing out that the Petitioner provided an illegible organizational chart of the foreign entity and offered a deficient job description that lacked specific information about the Beneficiary's job duties and frequency at which those duties were performed. Second, the Director concluded that the Petitioner did not provide sufficient evidence establishing that it has a qualifying relationship with the Beneficiary's foreign employer. The Director noted that the Petitioner did not specify the type of relationship it claims to have with the Beneficiary's foreign employer and further stated that despite providing a "Limited Liability Company Agreement" showing that [redacted] has a 51% ownership interest in the petitioning entity, the Petitioner did not establish that it shares common ownership with [redacted] the Beneficiary's foreign employer. Although the Director acknowledged the Petitioner's submission of a letter claiming that [redacted] are related entities, such evidence was deemed insufficient for the purpose of establishing the existence of a qualifying relationship between the Beneficiary's foreign and U.S. employers. The matter is now before us on appeal.[2] 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

---

[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.

[2] We decline the Petitioner's request for oral argument. 8 C.F.R. § 103.3(b).

On appeal, the Petitioner asserts that the Beneficiary's position abroad was at "the highest level of management" and states that it was the same as his proposed U.S. position in which the Beneficiary will assume responsibility for "strategy, execution, budget, [and] hiring [and] firing" and "will be charge [sic] of all suppliers." Although the Petitioner also stated that a letter signed by the company's president was previously submitted, it did not specify which contents in that letter, if any, addressed the Director's concerns regarding a detailed listing of the Beneficiary's job duties in his position with the foreign entity. Nor does the Petitioner offer any further information about the Beneficiary's foreign employment or the job duties he performed. Regarding the issue of a qualifying relationship, the Petitioner merely states that "[a]ll legal documents regarding Atlas [and the Petitioner] were submitted to prove the relationship," but it offers no further evidence to demonstrate the existence of a qualifying relationship despite the Director's finding that the evidence previously submitted was insufficient. Although the Petitioner states that additional evidence will be submitted within 30 days of filing the appeal, the record does not show any further submissions.

Accordingly, we adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case).

ORDER: The appeal is dismissed.