



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

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

In Re: 35404188

Date: DEC. 5, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Multinational Managers or Executives)

The Petitioner, a wholesale distributor, seeks to employ the Beneficiary as a manager. The company requests his classification under the employment-based, first-preference (EB-1) immigrant visa category as a multinational manager or executive. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). Multinational organizations may sponsor qualified noncitizens in this category to permanently work in the United States in managerial or executive capacities. *Id.*

The Director of the Texas Service Center denied the petition, concluding that the Petitioner omitted required initial evidence. We summarily dismissed the company's appeal, finding that it did not specify any erroneous legal conclusion or factual statement in the Director's decision. *See* 8 C.F.R. § 103.5(a)(1)(v).

The matter returns to us on the Petitioner's motion to reopen.¹ The company bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we conclude that the motion does not meet applicable requirements or demonstrate eligibility for the requested benefit. We must therefore dismiss it.

I. LAW

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). On motion, our scope of review is limited to our prior decision. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

¹ The Petitioner's Form I-290B, Notice of Appeal or Motion, identifies the filing as a motion to reconsider. But the filing's inclusion of a letter from the Beneficiary indicates the company's intent to provide new evidence. We will therefore treat the filing as a motion to reopen.

II. ANALYSIS

The Director denied the petition because the Petitioner omitted required initial evidence. Consistent with 8 C.F.R. § 103.2(b)(8)(ii), the Director asked the company to provide the missing evidence, including proof of:

- its U.S. job offer to the Beneficiary in a managerial or executive capacity;
- its qualifying relationship with his foreign employer;
- its continuing ability to pay the proffered wage;
- his employment abroad in a managerial or executive capacity for at least one year during the three years before his nonimmigrant U.S. admission; and
- the organization's continuing business operations outside the United States.

See 8 C.F.R. §§ 204.5(g)(2), (j)(3).

But the Petitioner did not timely respond to the Director's request. Thus, based on the record, the Director denied the petition. *See* 8 C.F.R. § 103.2(13)(i).

The Petitioner appealed. We summarily dismissed the filing, finding that it did not specify any erroneous legal conclusion or factual statement in the Director's decision. *See* 8 C.F.R. § 103.5(a)(1)(v).

The Petitioner's motion consists of a Form I-290B and the Beneficiary's letter. The letter states that, because of the COVID-19 pandemic's effects, his foreign employer closed more than two years ago. Stating the Petitioner's generation of more than \$30 million in revenues in 2021 and jobs for U.S. workers, the letter asks us to allow the company to continue U.S. operations and employing the Beneficiary.²

But the Beneficiary's letter does not address the grounds of our appellate decision. On motion, our scope of review is limited to our prior decision. 8 C.F.R. § 103.5(a)(1)(i), (ii) (referring to "the prior decision" and "the latest decision in the proceeding"). We must dismiss "[a] motion that does not meet applicable requirements." 8 C.F.R. § 103.5(a)(4). We found that the Petitioner's appeal did not specify any erroneous legal conclusion or factual statement in the Director's decision. *See* 8 C.F.R. § 103.5(a)(1)(v). Because the Petitioner's motion does not challenge our summary dismissal, the filing does not meet applicable requirements.

Also, the Petitioner's motion does not demonstrate eligibility for the requested benefit. The Beneficiary's letter does not remedy the petition's denial grounds. The letter does not constitute required initial evidence of:

- the company's U.S. job offer to the Beneficiary in a managerial or executive capacity;
- the company's qualifying relationship with his foreign employer;

² The letter's content identifies the Petitioner as another U.S. company: In any future filings in this matter, the Petitioner must explain any relationships among it, the other U.S. company, and the Beneficiary's foreign employer.

- the company's continuing ability to pay the proffered wage;
- his employment abroad in a managerial or executive capacity for at least one year during the three years before his nonimmigrant U.S. admission; or
- the organization's continuing business operations outside the United States.

III. CONCLUSION

The Petitioner's motion neither meets applicable requirements nor demonstrates eligibility for the requested benefit.

ORDER: The motion to reopen is dismissed.