



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

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

In Re: 28520877

Date: SEP. 06, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, which operates a childcare center, seeks to permanently employ the Beneficiary as its president under the first preference immigrant classification for multinational managers or executives. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that (1) the Beneficiary was employed abroad in a managerial or executive capacity; (2) the Petitioner will employ the Beneficiary in the United States in a managerial or executive capacity; and (3) the Petitioner has a qualifying relationship with the Beneficiary's foreign employer. We dismissed a subsequent appeal, concluding that the Petitioner did not demonstrate the Beneficiary had been employed abroad in the claimed executive capacity prior to her entry to the United States as a nonimmigrant in 2014.¹ The matter is now before us on motion to reopen.

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). Upon review, we will dismiss the motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits a brief and a copy of our prior decision dated February 14, 2023. The Petitioner has not, however, submitted any new facts and supporting evidence that address our reasons for dismissing its appeal. In our prior decision, we explained why the evidence submitted in

¹ Because the Petitioner did not meet its burden with respect to this eligibility requirement, this issue was dispositive of the appeal. Accordingly, we declined to reach and reserved the Petitioner's appellate arguments regarding the two remaining grounds for denial addressed in the Director's decision. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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).

support of the petition was insufficient to establish that the Beneficiary was, more likely than not, employed by the Petitioner's foreign affiliate in an executive capacity as defined at section 101(a)(44)(B) of the Act, 8 U.S.C. § 1101(a)(44)(B). Our decision highlighted deficiencies in the submitted position descriptions for the Beneficiary's role as the foreign entity's sole proprietor and owner and explained that the record lacked sufficient evidence of the foreign entity's staffing and structure to support a determination that the company employed the Beneficiary in the claimed executive capacity. The Petitioner has not submitted new facts, supported by evidence, that address these deficiencies.

Instead, the Petitioner offers a brief in which it primarily addresses the Beneficiary's proposed U.S. employment, its claimed qualifying relationship with her foreign employer, and the Petitioner's ability to pay the Beneficiary's proffered wage, an issue that was not addressed in the Director's decision denying the petition or our prior decision dismissing its appeal. With respect to the Beneficiary's employment abroad, the Petitioner summarizes the evidence it previously submitted in support of its claim that such employment was in an executive capacity. However, the record reflects that we considered this evidence in our prior decision. The Petitioner's statements pertaining to the Beneficiary's employment abroad do not constitute "new facts" and are not supported by evidence that could change the outcome of our decision.

The Petitioner also requests that we "review the complete file," emphasizing that the Beneficiary was previously granted L-1A nonimmigrant status, a fact that we also addressed in our prior decision. Here, the Petitioner has not submitted new facts that would warrant reopening of the proceeding or that would establish eligibility for the benefit sought. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4). We have no basis to grant the Petitioner's request to re-adjudicate the petition anew and therefore the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.