



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

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

In Re: 24544119

Date: JAN. 11, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, which is self-described as a 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. 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 seven motions to reconsider, and we have dismissed each motion. The matter is now before us on an eighth motion to reconsider.

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 to reconsider.

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 a prior decision to instances where the Petitioner has shown "proper cause" for that action. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

As noted above, the Director denied the petition based on a determination that the Petitioner did not establish that it would employ the Beneficiary in a managerial capacity as defined at section

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.

101(a)(44)(A) of the Act. We dismissed the appeal after reaching the same conclusion. Further, based on our de novo review of the record on appeal, 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 seven subsequent motions to reconsider. Our prior decisions are part of the record of proceedings and are incorporated herein by reference.

As we have emphasized in our previous decisions, the scope of a motion is limited by regulation to “the prior decision.” 8 C.F.R. § 103.5(a)(1)(i). Therefore, the issue before us is whether the Petitioner has provided proper cause for reconsideration of our decision dated August 4, 2022, in which we dismissed its seventh motion to reconsider.

In that decision, we acknowledged that the Petitioner had broadly asserted in its brief that the Beneficiary would be employed in a managerial capacity and that the company was doing business when it filed the petition in February 2016. However, we concluded that the Petitioner did not provide specific reasons for reconsideration of our decision dated December 16, 2021, in which we dismissed its sixth motion. Although the Petitioner submitted a brief in support of the seventh motion, it did not directly address the conclusions we reached in our prior decision or claim that we misapplied law or policy in dismissing the prior motion. We emphasized that merely expressing disagreement with an adverse decision is not sufficient to meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3). *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). Rather, the moving party must demonstrate that the immediate prior decision was based on an incorrect application of law or USCIS policy.

In support of the current motion to reconsider, the Petitioner submits a brief that is substantially similar to the brief provided in support of its seventh motion to reconsider, with much of the language copied verbatim from the earlier brief. It generally objects to the denial of the petition and subsequent dismissals of its appeal and motions, claims that the Petitioner and Beneficiary are eligible for the requested benefit, and asserts that the petition should have been approved based on the evidence of record. The Petitioner does not, however, provide reasons for reconsideration or demonstrate that we misapplied the law or USCIS policy in our dismissal of its most recent motion to reconsider. In fact, the Petitioner does not directly address our immediate prior decision, beyond noting the date the decision was issued. Therefore, the Petitioner’s motion to reconsider does not meet the requirements stated at 8 C.F.R. § 103.5(a)(3).

For the reason discussed, we conclude that the Petitioner has not shown proper cause for reconsideration of our prior decision. As the motion does not meet all the requirements of a motion to reconsider, it must be dismissed pursuant to 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.