U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8845845

Date: JULY 7, 2020

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks to continue employing the Beneficiary as its general manager under the L-1A nonimmigrant visa classification for intracompany managers or executives. 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 we dismissed the Petitioner's appeal. *See Matter of S-S- Inc.*, ID# 2040694 (AAO Mar. 21, 2019). We also dismissed the Petitioner's following motion to reopen as untimely. *See* 8 C.F.R. §§ 103.5(a)(1)(i), 103.8(b) (requiring filing of a motion to open within 33 days of the mailing of a challenged decision).

The matter is before us again on the Petitioner's motion to reconsider. Upon review, we will dismiss the motion.

I. MOTION CRITERIA

A motion to reconsider must establish that our prior decision misapplied law or U.S. Citizenship and Immigration Services (USCIS) policy based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that meets these criteria and establishes the approvability of the underlying petition.

II. THE PETITIONER'S MOTION

In part 2 of its current Form I-290B, Notice of Appeal or Motion, the Petitioner marked box 1.c., indicating the company's filing of a "motion to reconsider." An attachment to the form also describes the filing as a "motion to reconsider." The motion asserts that the Petitioner timely filed its prior motion to reopen. The Petitioner bases its motion, however, on new evidence, not on the record at the time of our decision. *See* 8 C.F.R. § 103.5(a)(3) (stating that a motion to reconsider must be "based on the evidence of record at the time of the initial decision"). The motion cites and includes copies of online information and email messages from the U.S. Postal Service to the Beneficiary, purportedly demonstrating the Petitioner's timely filing of the prior motion to reopen.

Because the Petitioner does not base its motion on the record at the time of our prior decision, the filing does not meet the requirements of a motion to reconsider. We must therefore dismiss the motion. *See* 8 C.F.R. § 103.5(a)(4) (stating that "[a] motion that does not meet applicable requirements shall be dismissed").

Even if we could accept the current filing as a motion to reopen, which we cannot, it would not establish the Petitioner's timely filing of its prior motion. The emails and online information accompanying this motion would establish USCIS' initial receipt of the Petitioner's prior motion within 33 days of our appellate decision. But, to be properly filed, USCIS must receive a submission "at the location designated for filing such benefit request." 8 C.F.R. § 103.2 (a)(7)(i). Here, USCIS designated the filing of a motion seeking to reopen an AAO decision at a lockbox facility in Phoenix, Arizona. *See* USCIS, "Direct Filing Addresses for Form I-290B, Notice of Appeal or Motion," https://www.uscis.gov/i-290b-addresses (last visited June 5, 2020). The Petitioner's evidence, however, shows the filing of its prior motion at the California Service Center. Thus, contrary to the Petitioner's assertion, the record would not establish the company's timely filing of its prior motion to reopen.

III. CONCLUSION

The motion to reconsider does not establish our misapplication of law or USCIS policy, or the approvability of the underlying petition.

ORDER: The motion is dismissed.