



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

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

In Re: 28448320

Date: OCT. 31, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a tobacco retailer, seeks to permanently employ the Beneficiary as its general manager under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in an executive or managerial capacity.

The Director of the Texas Service Center denied the petition on multiple grounds, concluding that the record did not establish that the Petitioner had been doing business for at least one year at the time of filing, that it had the ability to pay the Beneficiary's proffered wage, and that it has a qualifying relationship with the Beneficiary's foreign employer. The Director further determined that the Petitioner did not establish that the Beneficiary had been employed abroad in a managerial or executive capacity for at least one year in the three years preceding the filing of the petition, and that he would be employed in a managerial or executive capacity in the United States. Finally, the Director concluded that both the Petitioner and Beneficiary had willfully misrepresented facts that are material to eligibility for the requested classification. The matter is now before us on appeal. 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.

Our review of U.S. Citizenship and Immigration Services records indicates that the Petitioner simultaneously filed two duplicate appeals of the Director's decision with our office. Because we have addressed the merits of the Petitioner's appeal in our decision, *In re* 28456709 (AAO Oct. 31, 2023), we will dismiss the instant submission as moot.

ORDER: The appeal is dismissed.