U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF K-I- CORP.

DATE: JUNE 15, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a Virginia corporation, is looking to operate as an international trade and investment firm. Accordingly, the Petitioner seeks to temporarily employ the Beneficiary as its general manager of its new office under the L-1A nonimmigrant classification for intracompany transferees. *See* 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, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not submit sufficient evidence to establish that it would employ the Beneficiary in the United States in a qualifying managerial capacity within one year of approval of the petition.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional evidence and asserts that the Director erred in failing to take into account relevant documents that establish that (1) the Beneficiary would oversee the work of supervisory and professional employees, and (2) the non-qualifying operational tasks would be performed by employees in China and the United States and by external service providers.

Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1 nonimmigrant visa classification, a qualifying organization must have employed the Beneficiary in a managerial or executive capacity, or in a specialized knowledge capacity, for one continuous year within three years preceding the Beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the Beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity. *Id.*

The regulation at 8 C.F.R. § 214.2(l)(3) states that an individual petition filed on Form I-129, Petition for a Nonimmigrant Worker, shall be accompanied by:

(i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.

(ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.

(iii) Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.

(iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

In addition, the regulation at 8 C.F.R. § 214.2(l)(3)(v) states that if the petition indicates that the beneficiary is coming to the United States as a manager or executive to open or to be employed in a new office, the petitioner shall submit evidence that:

(A) Sufficient physical premises to house the new office have been secured;

(B) The beneficiary has been employed for one continuous year in the three year period preceding the filing of the petition in an executive or managerial capacity and that the proposed employment involved executive or managerial authority over the new operation; and

(C) The intended United States operation, within one year of the approval of the petition, will support an executive or managerial position as defined in paragraphs (l)(1)(ii)(B) or (C) of this section, supported by information regarding:

(*1*) The proposed nature of the office describing the scope of the entity, its organizational structure, and its financial goals;

(*2*) The size of the United States investment and the financial ability of the foreign entity to remunerate the beneficiary and to commence doing business in the United States; and

(*3*) The organizational structure of the foreign entity.

II. EVIDENTIARY STANDARD

As a preliminary matter, and in light of the Petitioner's references to the requirement that we apply the "preponderance of the evidence" standard, we affirm that, in the exercise of our appellate review in this matter, we follow the preponderance of the evidence standard as specified in the controlling precedent decision, *Matter of Chawathe*, 25 I&N Dec. 369, 375-376 (AAO 2010). In pertinent part, that decision states the following:

> Except where a different standard is specified by law, a petitioner or applicant in administrative immigration proceedings must prove by a preponderance of evidence that he or she is eligible for the benefit sought.
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> The "preponderance of the evidence" of "truth" is made based on the factual circumstances of each individual case.
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> Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.
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> Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "more likely than not" or "probably" true, the applicant or petitioner has satisfied the standard of proof. *See INS v. Cardoza-Foncesca*, 480 U.S. 421, 431 (1987) (discussing "more likely than not" as a greater than 50% chance of an occurrence taking place). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

Id.

We conduct appellate review on a *de novo* basis. In doing so, we apply the preponderance of the evidence standard as outlined in *Matter of Chawathe.* Upon our review of the present matter pursuant to that standard, however, we find that the evidence in the record of proceeding does not support the Petitioner's contentions that the evidence of record establishes eligibility for the benefit sought.

III. U.S. EMPLOYMENT IN A MANAGERIAL CAPACITY

The Director denied the petition based on a finding that the Petitioner did not establish that the Beneficiary will be employed in a managerial capacity. The Petitioner does not claim that the Beneficiary will be employed in an executive capacity. Therefore, we restrict our analysis to whether the Beneficiary will be employed in a managerial capacity.

Section 101(a)(44)(A) of the Act, 8 U.S.C. § 1101(a)(44)(A), defines the term "managerial capacity" as "an assignment within an organization in which the employee primarily":

(i) manages the organization, or a department, subdivision, function, or component of the organization;

(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization), or if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, U.S. Citizenship and Immigration Services (USCIS) must take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act.

A. Evidence of Record

The Petitioner filed the Form I-129 on May 12, 2015, stating that it intends to operate an international trade and investment business, which would include buying U.S. products for sale in China and "investing in privately owned U.S. businesses and industries." The Petitioner provided evidence to show its receipt of $200,000, which it plans to use for its initial start-up costs.

With regard to the Beneficiary's proposed U.S. position, the Petitioner stated that the Beneficiary would be required to hire, train, and "develop" a staff of clerical and professional employees; make

decisions regarding the daily operation; supervise the work of supervisory and professional employees; take various personnel actions, including promoting, firing, and disciplining employees; developing and implementing "systems, policies, procedures, and other business standards"; gather "pertinent business, financial, service, and operations information" through collaboration with professional employees to establish strategic goals; identify business trends and evaluate options; determine the appropriate course of action; evaluate results; and ensure that objectives and goals are being met and necessary employees are recruited within the time schedules set by the business plan. The Petitioner further noted that the Beneficiary would rely, in part, on "outside firms" to help him determine financial objectives, prepare an annual budget, schedule expenditures, analyze "variances," and take corrective action.

The Director issued a request for evidence (RFE) on May 26, 2015, instructing the Petitioner to submit evidence to establish that the Beneficiary will be employed in a managerial or executive capacity in the United States within one year of petition approval.

The Petitioner's submissions in response to the RFE included a supplemental business plan stating that the Petitioner intends to engage in three types of business activities: 1) supplying the parent entity with U.S. products to be sold in China (specifically export of American wild life sea cucumbers and replacement auto parts for sale in China), 2) purchasing products in China for sale in the United States (specifically importing Chinese food ingredients to be sold in the United States), and 3) investing in privately-owned U.S. companies. The Petitioner stated at part 1.2 of the business plan that the foreign entity would invest $200,000 as initial capital that will be used during the startup stage for salaries, office rent, and facility costs. The Petitioner estimated that it would attain a profit of $500,000 from sales and international trade during its second year of operation. At part 2.2.1 of the business plan, the Petitioner discussed the first project, claiming that it expected to export 9,000 pounds of sea cucumbers during its first year of operation for a net profit of $200,000 but did not specify how much money it planned to invest in the purchase of the goods it planned to export. At part 2.2.2 of the business plan, the Petitioner discussed exporting U.S. automobile parts to China, claiming that it plans to invest $400,000 in this project during its first year of operation and expects a net profit of $100,000. In discussing importing Chinese food ingredients for sale in the United States, the Petitioner stated (at part 2.2.3 of the business plan) that it would provide sourcing and purchasing, shipping, and warehousing and delivery services to its clients in the United States. The Petitioner did not specify the investment required or the net profit expected with this project.

At part 4.1 of the business plan, the Petitioner provided a three-year corporate strategy, indicating that it planned to enter into agreements with business partners on all three of the above-described projects. The Petitioner also stressed the importance of conducting market research and building a sales team, which would include a brand manager as well as "production effects managers" and sales representatives. The Petitioner's proposed organizational chart, provided at part 6.2 of the business plan, depicts an international trade manager, market/investment representative/analyst, staff accountant, and a bilingual secretary/administrative assistant, all directly below the Beneficiary's position of general manager. The Petitioner indicated that all of the proposed positions, including the Beneficiary's position, would collectively comprise the management team. The only hiring

schedule included in the business plan indicated that the Petitioner would hire "1-2" employees during its first year of operation, "3-4" employees during the second year of operation, and "4-7" employees during the development stage, or the third year of operation.

Finally, the Petitioner provided job descriptions for the Beneficiary and the four subordinate positions it intends to fill within the first three years of its operation. The Beneficiary's position was described at part 6.3.4, which states that the Beneficiary will supervise and control the work of professional and supervisory employees, hiring and fire employees, recommend promotions and other personnel actions to the board of directors, exercise control over all employees, including the company's department heads, and make discretionary decisions pertaining to the Petitioner's daily operations.

The Director denied the petition on September 1, 2015, concluding that the Petitioner did not establish that the new office would support the Beneficiary in a managerial capacity within one year of approval of the petition. In denying the petition, the Director found that the Petitioner's staffing projections did not specify which positions would be filled at any time during its first three years of operation. The Director also found that the business plan provided vague job descriptions for the Beneficiary and his projected subordinates. With regard to the Beneficiary's position, the Director found that the Petitioner essentially paraphrased the statutory definition of managerial capacity.

On appeal, the Petitioner submits an appeal brief disputing the Director's findings. The Petitioner asserts that it provided a detailed breakdown of the Beneficiary's job duties and other supporting evidence, including organizational charts, company development tables, and an employee list. The Petitioner contends that the Director did not properly consider these documents in determining whether it met the preponderance of the evidence standard of proof.

B. Analysis

Upon review of the petition and the evidence of record, including materials submitted in support of the appeal, we conclude that the Petitioner has not established that the Beneficiary will be employed in the United States in a managerial capacity within one year of approval of the petition.

When examining the managerial or executive capacity of the Beneficiary, we will look first to the Petitioner's description of the job duties. *See* 8 C.F.R. § 214.2(l)(3)(ii). The Petitioner's description of the job duties must clearly describe the duties to be performed by the Beneficiary and indicate whether such duties are in a managerial or executive capacity. *Id.*

The definitions of managerial and executive capacity each have two parts. First, the Petitioner must show that the Beneficiary will perform certain high-level responsibilities. *Champion World, Inc. v. INS*, 940 F.2d 1533 (9th Cir. 1991) (unpublished table decision). Second, the Petitioner must prove that the Beneficiary will be *primarily* engaged in managerial or executive duties, as opposed to ordinary operational activities alongside the Petitioner's other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006); *Champion World*, 940 F.2d 1533.

Looking first to the Beneficiary's job duties, we concur with the Director's finding that the Petitioner did not provide an adequately detailed job description explaining what job duties the Beneficiary would carry out during the Petitioner's initial year of operation or what job duties he would be expected to perform beyond the start-up phase of operation. While the Petitioner provided a job description that focuses heavily on the Beneficiary's discretionary authority over the company's staffing and the daily operations in general, it is unclear what tasks would actually comprise the Beneficiary's proposed position either during or after the Petitioner's first year of operation. In other words, the Petitioner did not discuss what duties the Beneficiary would perform during the Petitioner's first year of operation to ensure that the Petitioner will move beyond the startup phase to a stage of development wherein it would support the Beneficiary in a managerial capacity. Nor does the job description differentiate between the job duties the Beneficiary would perform during the Petitioner's initial stage of operation and those he would perform in the subsequent phase of the company's development. Rather, the Petitioner focuses on the leadership role and discretionary authority, which are at the core of the statutory definition. However, merely restating or paraphrasing the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Specifics are clearly an important indication of whether a beneficiary's duties are primarily executive or managerial in nature; otherwise, meeting the definitions would simply be a matter of reiterating the regulations. *Id.* at 1108.

Therefore, while the Beneficiary's discretionary authority and his anticipated top-most placement within the Petitioner's organizational hierarchy are consistent with the statutory definition, the information provided does not impart meaningful information that would further our understanding of the nature of the Beneficiary's job duties, which are critical to establishing that the Beneficiary would be employed in a managerial capacity. As indicated above, the actual duties themselves reveal the true nature of the employment. *Id.*

On appeal, the Petitioner contends that the Beneficiary "is the top managerial employee of the organization" and that the Beneficiary will hold the same "General Manager positions in the foreign parent company and the U.S. company." As such, the Petitioner urges us to consider the foreign entity's personnel structure and the job duties the Beneficiary performs for the employer abroad, stating that these factors are relevant given that it and its foreign parent entity are part of a single organization. However, if we were to actively apply the Petitioner's reasoning to this and other such cases, there would never be a need to consider a beneficiary's proposed job duties in the United States, the hierarchical structure of the U.S. entity, or whether the U.S. entity would develop beyond the initial stage of development if it filed as a new office petitioner. Based on the Petitioner's argument, these factors would be irrelevant so long as the petitioner can establish that it has a qualifying relationship with a developed foreign organization. Thus, despite the Beneficiary's qualifying job duties abroad or his placement at the top of a developed organizational hierarchy of the foreign employer, the issue of the Petitioner's organization and the job duties to be performed within the context of the U.S. entity are central to the overall question of the Petitioner's eligibility.

Here, given the lack of specific information describing the Beneficiary's proposed employment during and subsequent to the Petitioner's initial year of operation, we are unable to determine the managerial nature of the proposed employment.

In addition, it is important to note that when a new business is established and commences operations, the regulations recognize that a designated manager or executive responsible for setting up operations will be engaged in a variety of activities not normally performed by employees at the executive or managerial level and that often the full range of managerial responsibility cannot be performed. In order to qualify for L-1 nonimmigrant classification during the first year of operations, the regulations require the petitioner to disclose the business plans and the size of the United States investment, and thereby establish that the proposed enterprise will support an executive or managerial position within one year of the approval of the petition. *See* 8 C.F.R. § 214.2(l)(3)(v)(C). This evidence should demonstrate a realistic expectation that the enterprise will succeed and rapidly expand as it moves away from the developmental stage to full operations, where there would be an actual need for a manager who will primarily perform qualifying duties.

In the present matter, while the Petitioner's original business plan, submitted in support of the petition, indicated that the Beneficiary would hire a bilingual secretary and a marketing representative during its first year of operation, the supplemental business plan, which was provided in response to the RFE, lacked a specific hiring plan delineating the specific positions the Petitioner was looking to fill during the remaining two of its initial three years of operation. While the supplemental business plan repeatedly referred to the three projects the Petitioner intends to pursue during its first year of operation, the Petitioner did not explain how a staff of three employees – comprised of the Beneficiary as general manager, a bilingual secretary, and a marketing representative – would address the demands of the three projects, which include purchase and sales of products as well as providing warehouse and delivery services.

Further, given that the Petitioner does not plan to fill the positions of staff accountant and international trade manager until the second year of operation, it is unclear how the Petitioner would progress to the next stage of development where it would support the Beneficiary in a managerial capacity while employing a support staff of only two employees. In fact, based on the statements put forth in the original business plan, the Petitioner's decision to hire additional clerical staff, business representatives, and marketing analysts would depend "on the extent of business growth." The Petitioner did not definitively state that it plans to hire anyone other than a staff accountant during its second year of operation, thus indicating that the Petitioner would continue to operate with no sales representative or staff to handle the logistics of invoicing, storing, and shipping merchandise that the Petitioner plans to export to China.

We note that the regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) only allows the "new office" operation one year within the date of approval of the petition to support an executive or managerial position. There is no provision in USCIS regulations that allows for an extension of this one-year period. It therefore follows that if the Petitioner's staffing projections do not present a realistic likelihood that the Petitioner would have the ability to sufficiently relieve the Beneficiary from performing

operational and administrative tasks after its initial year of operation, the Petitioner would be ineligible for approval of the new office visa petition. Thus, the Petitioner's specific hiring plan is highly relevant as a means of indicating which job duties the Beneficiary would be able to delegate to subordinate employees at the commencement of its second year of operation. If the Petitioner does not plan to adequately staff its organization by the time it commences its second year of operation, it is unlikely that the Petitioner would have the ability to relieve the Beneficiary from having to allocate his time primarily to non-managerial tasks. Here, it is unclear precisely when the Petitioner plans to hire an international trade manager or sales personnel, nor does the Petitioner discuss a plan to retain service providers to handle the logistics associated with purchasing, selling, and exporting merchandise to a foreign country. Without this information, we cannot assume that the Petitioner would commence its second year of operation with a staff sufficient to support the Beneficiary in a managerial capacity.

In addition, the Petitioner's current business plan describes projects that will require selling and purchasing goods and providing warehouse and delivery services. However, the Petitioner does not clarify which employees would assist in providing these services during the Petitioner's initial year of operation or how the Petitioner plans to relieve the Beneficiary from directly engaging in these non-qualifying operational activities going forward, beyond the initial year of operation. As the Petitioner did not provide a timeline for hiring sales personnel or explain who will assume the logistics of storing and shipping goods that the Petitioner intends to export, it is reasonable for us to conclude that the Beneficiary would be directly involved in the non-qualifying tasks associated with sales and purchase as well as shipping and handling of merchandise until such time that the Petitioner has the necessary personnel or retains the services of outside contractors to whom the Beneficiary, or his immediate support staff, would be able to delegate these daily operational tasks. In the present matter, the Petitioner has not provided a business plan to clarify and resolve these critical issues, thus leaving open the likelihood that the Beneficiary would continue to allocate a considerable portion of his time to the performance of non-qualifying tasks beyond the Petitioner's first year of operation. These anomalies regarding the Petitioner's incomplete hiring plan give us sufficient reason to doubt whether the Petitioner would, at the end of one year, have the staff necessary to relieve the Beneficiary from having to allocate his time primarily to the nonmanagerial job duties he would be expected to perform during the startup phase of its operation.

On appeal, the Petitioner states that we should also consider the foreign entity's staff when determining whether or not the Beneficiary will be employed in a managerial capacity. The Petitioner is correct that we may consider staff from the entire qualifying organization when determining whether or not there is sufficient staff to relieve the Beneficiary from performing nonmanagerial duties.[1] However, the Petitioner must demonstrate and document that the foreign staff are in fact supporting the Beneficiary's work for the Petitioner. Here, the record of proceedings does not indicate that the foreign and U.S. entities would work together or that the foreign entity's work force would support the Beneficiary in the proffered position. Rather, the record indicates that the Petitioner would operate separately from its foreign counterpart and as such would require its

[1] *See Matter of Z-A-, Inc.*, Adopted Decision 2016-02 (AAO Apr. 14, 2016)

own organizational hierarchy within which the Beneficiary would carry out job duties that would ideally be tailored to fit the U.S. entity's needs, which are not necessarily the same as the needs of the foreign employer, whose business purpose is considerably different from those of the petitioning entity. In addition, while the Petitioner claims that it would rely on the foreign entity's "professional employees[,] such as engineers, and other technical staff" to provide various non-managerial services, it did not specify what is meant by "other technical staff" or describe the job duties such staff would provide within the scope of the Petitioner's business operations. The Petitioner also did not establish a need for engineers given the nature of the business the Petitioner expects to conduct. Absent evidence that the foreign parent company staff will directly support the work of the Beneficiary as the general manager of the Petitioner, we cannot find that the Petitioner would have sufficient staff to relieve the Beneficiary from performing nonqualifying duties.

The petitioner correctly observes that a company's size alone, without taking into account the reasonable needs of the organization, may not be the determining factor in denying a visa petition for classification as a multinational manager or executive. *See* section 101(a)(44)(C) of the Act, 8 U.S.C. § 1101(a)(44)(C). However, the Petitioner acknowledges that it is appropriate for USCIS to consider the size of the petitioning company in conjunction with other relevant factors, such as the absence of employees who would perform the non-managerial or non-executive operations of the company, or a "shell company" that does not conduct business in a regular and continuous manner. *See, e.g. Family Inc. v. USCIS*, 469 F.3d 1313 (9th Cir. 2006); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

In the matter at hand, the proposed size of the petitioning entity is not the sole determining factor in assessing the Petitioner's eligibility. As indicated by the comprehensive discussion above, we have considered a variety of factors, including the Petitioner's business plan, hiring projections, and the Beneficiary's job descriptions, all of which have contributed to the conclusion that the evidence of record does not support the conclusion that the Petitioner would have the ability to employ the Beneficiary in a managerial capacity within one year of the petition's approval.

Finally, the Petitioner references page three of the denial, asserting that "the Director admitted that USCIS had found that the initial business plan established that the [P]etitioner will be able to support a managerial position within one year of the initial petition's approval." Having fully reviewed the decision, including the page referenced on appeal, we find that the Petitioner's interpretation of the Director's findings is inaccurate. Contrary to the Petitioner's assertion, the Director was clear in stating that both the initial submissions and the evidence the Petitioner submitted on August 20, 2015, were insufficient to establish eligibility. The Director commented on the vague job descriptions provided initially in support of the petition and further noted that "the subsequently submitted new business plan did not establish that the [B]eneficiary will be sufficiently insulated from primarily performing non-managerial duties within one year of petition approval."[2]

[2] Denial, p. 4 (Sept. 1, 2015).

Based on the deficient job descriptions the Petitioner provided and its incomplete business plan, which does not establish that a sufficient hiring plan is in place to support the Beneficiary in a managerial capacity, we find that the Petitioner has not established that the Beneficiary would be employed in a managerial capacity in the United States within one year of the petition's approval.

IV. CORPORATE EXISTENCE

While not a basis for our decision in this matter, we note that a record search of the State Corporation Commission database for the Commonwealth of Virginia showed that the Petitioner's corporate status was terminated on February 1, 2016. In the event that the Petitioner chooses to file a new petition, the Petitioner's dissolution would raise serious questions about whether it continues to exist as an importing employer, whether it maintains a qualifying relationship, and whether it is authorized to conduct business in a regular and systematic manner. *See* section 214(c)(1) of the Act; *see also* 8 C.F.R. §§ 214.2(l)(1)(ii)(G) and (l)(3). Such evidence, if unrefuted, would indicate that the Petitioner no longer remains in operation as a viable business and is therefore not eligible to extend an offer of employment to the Beneficiary.

V. CONCLUSION

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of K-I- Corp.*, ID# 17274 (AAO June 15, 2016)