U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43518530

Date: AUG. 20, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

Form I-526E, Immigrant Petition by Regional Center Investor

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference (EB-5) classification makes immigrant visas available to aliens who have invested, or are in the process of investing, the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees. Aliens may invest in a project associated with a regional center in the United States, which has been designated by the Secretary of Homeland Security based on a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment. *See* section 203(b)(5)(E)(i) of the Act.

USCIS denied the petition, concluding that the Petitioner did not demonstrate the funds he remitted to the NCE as his EB-5 investment were obtained from a lawful source and through lawful means, and therefore did not establish that he invested the requisite amount of qualifying capital. USCIS further determined that the Petitioner did not complete the Form I-526E, Immigrant Petition by Regional Center Investor, according to the form instructions, and did not provide all statutorily required initial evidence in support of the petition to establish eligibility at the time of filing. The matter is now before us on appeal pursuant to 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.

I. LAW

The term "capital" means cash and all real, personal or mixed tangible assets owned and controlled by the alien investor and to which the alien has unrestricted access. Section 203(b)(5)(D)(ii)(I) of the Act. "Capital" does not include any assets directly or indirectly acquired by unlawful means, including any cash proceeds of indebtedness secured by such assets. Section 203(b)(5)(D)(ii)(III) of the Act. An alien investor must therefore demonstrate that the required amount of capital they have invested, or are actively in the process of investing, and any funds used to pay administrative costs and fees

associated with their investment were obtained from a lawful source and through lawful means. Section 203(b)(5)(L)(i) of the Act.

To show that the capital invested, or actively in the process of being invested, was obtained from a lawful source and through lawful means, an alien investor must submit, as applicable business and tax records, or similar records, outlined at section 203(b)(5)(L)(ii) of the Act. A petitioner must also document the path of the funds. *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998). The petitioner cannot establish the lawful source of funds merely by submitting bank letters or statements documenting the deposit of funds in the NCE; the record must trace the complete path of the funds back to a lawful source. *Borushevskyi v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd*, 2024 WL 2762146 (D.C. Cir. May 30, 2024) (holding that demonstrating a "complete path" of funds is USCIS' authoritative position recognized by other relevant precedent decisions); *see also Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998).

II. ANALYSIS

The primary issue we will address is whether the Petitioner established that the funds he invested in the NCE, and the funds used to pay the administrative fee associated with his investment, were obtained from a lawful source and through lawful means.

The record shows that in September and December 2024, the Petitioner remitted a total of $870,000 to the escrow account designated by [redacted] LLC (the NCE), which is which is associated with [redacted] LLC.[1] According to the project offering documents, the NCE proposes to pool $169.6 million from 212 immigrant investors and will loan the entire amount to [redacted] LLC, the job-creating entity, to fund the construction and development of a resort property in [redacted] California.

The Petitioner stated that he obtained the $870,000 he invested from the September 2024 sale of real property he owned in [redacted] Vietnam for a sum of 22.8 billion Vietnamese dong (VND). He documented the property sale, his receipt of the sales proceeds, the exchange of those funds for U.S. dollars, and the transfer of funds to the NCE through his and his spouse's Vietnamese bank accounts. The Petitioner also provided evidence of his ownership of the property, along with evidence that he acquired ownership through a gift from his parents, who executed a Contract of Gift of Land Use Rights in October 2008. The record includes the Land Use Rights Transfer Contract documenting his parents' acquisition of land use rights for the property for a sum of one billion VND (paid in cash) in September 2006, and a Certificate of House Ownership and Land Use Rights issued to his parents in January 2008. The Petitioner stated that his parents purchased the property using accumulated savings from their lawful employment.

[1] In June 2024, USCIS approved the Regional Center's Form I-956F, Application for Approval of an Investment in a Commercial Enterprise, confirming that the NCE in which the Petitioner invested is principally doing business within a targeted employment area. *See* section 203(b)(5)(B)(i)(I) of the Act. Therefore, the requisite amount of capital was downwardly adjusted from $1,050,000 to $800,000. *See* section 203(b)(5)(C)(ii) of the Act. The Petitioner's remittance to the NCE included a $70,000 administrative fee.

USCIS concluded that the Petitioner did not provide sufficient documentary evidence to demonstrate the source of the funds his parents used to acquire the real property they later gifted to him. USCIS emphasized that because the Petitioner's sale of that property was the sole source of his investment in the NCE, he had not met his burden to show the funds he invested were obtained from a lawful source and through lawful means. USCIS specifically noted the absence of evidence such as "bank statements, paystubs, and payroll records" to corroborate the Petitioner's claim that his parents used their accumulated and saved employment income to purchase the property.

On appeal, the Petitioner asserts that USCIS' demand for "bank statements, paystubs and payroll records" from his parents was "unreasonable and ignores the objective impossibility of producing such documents." He maintains that he nevertheless provided a "comprehensive body of corroborating evidence" which USCIS erroneously dismissed as "self-serving statements." The Petitioner claims that the totality of the evidence demonstrates that his parents "earned lawful income from their employment over decades and used those savings to purchase the Property."

We acknowledge the Petitioner's claim that it is not possible for him to obtain his parents' pay stubs, payroll records, or bank statements from the 1960s and 1970s and note that the record tends to confirm the unavailability of such evidence. But it nevertheless remains his burden to demonstrate, by a preponderance of the evidence, that the VND 1,000,000,000 his parents used to purchase property in Vietnam in 2006 was obtained from a lawful source and through lawful means. For the reasons provided below, he has not met that burden.

To establish his parent's lawful employment, the Petitioner submitted a "Statement on the Work of Parents" in response to USCIS' request for evidence. He stated that his father operated a private business called [redacted] and his mother worked at the [redacted] which was managed by his family. He explained that both establishments were in operation in [redacted] province for "a long time before 1975," but noted that after Vietnam's reunification, the government established a provincial health department to centrally manage medical facilities, at which time "all former private establishments, including our family's maternity home and pharmacy, ceased operations." The Petitioner stated that his mother stopped working immediately after 1975 and his father "continued for a short time before retiring completely."

The Petitioner also provided a statement from his father, who indicated that he "worked as a pharmacist and owner of [redacted]' during "the 1960s-1975."[2] He emphasized that due to the passage of time and the historical circumstances in Vietnam, business registration documents from that period were not retained or officially archived. He also explained that salary and business transactions were conducted in cash, and that he could not provide payroll records, tax statements or banking evidence to demonstrate the accumulation of savings used for the 2006 property purchase. The Petitioner's father stated that he and his spouse purchased the property in [redacted] "with our lawful income and personal savings, earned through our work over many years."

[2] At the time of filing, the Petitioner submitted an "Investment Process Statement" in which he claimed that his father operated the pharmacy until 1986. He also provided a letter from his cousin who stated that he worked as an assistant at the pharmacy from 1983 to 1985. These statements are not consistent with his father's stated dates of employment and the Petitioner's own subsequent statement that private health-related establishments in [redacted] province, including pharmacies, "ceased operations" in 1975.

The Petitioner documented his unsuccessful efforts to extract records and documents related to his parents' businesses from [redacted] Provincial Historical Archives Center. He also provided background information on the post-war changes to [redacted] province's health care system and other administrative changes within the province that have impacted its retention of official records. Along with this information, he submitted advisory letters from two Vietnamese attorneys who further explained the legal and historical context for the unavailability of income, tax and archived business records, and the prevalent use of cash for real estate and salary transactions in Vietnam.

As corroborating evidence of his parents' employment, the Petitioner provided copies of family photographs taken at the pharmacy and maternity home, the above-referenced letter from his cousin who claims he worked in the pharmacy, and a letter from a neighbor who stated she was familiar with the parents' former businesses. He also provided an "Application for Confirmation" he submitted to the People's Committee of [redacted] in which he requested confirmation of the information he provided regarding the existence and operating dates of his parents' businesses. The advisory letter from [redacted] Ltd. addressed this evidence. The attorney noted that this confirmation from the [redacted] was not based on any "direct documents" but opined that it should be considered "indirect evidence of the existence of [redacted] and [redacted] in reality at the local area."

The Petitioner has demonstrated the unavailability of official bank, payroll, business and tax records relating to his parents' employment. Based on the alternate evidence provided, it appears more likely than not that they worked at the identified establishments for a period prior to 1975. We observe that the Petitioner has not indicated or documented that his parents had any source of income after their respective businesses ceased operations. Therefore, he bears the burden of establishing that they earned and saved sufficient lawful income from their pre-1975 employment alone to fund a land purchase for VND 1,000,000,000 (approximately $63,000) in 2006.

The submitted evidence presents an incomplete and insufficient picture of the source and accumulation of the funds used by the Petitioner's parents to purchase that property. The Petitioner has not provided evidence or information regarding his parents' typical annual earnings while working, their typical household living expenses, or the amount of savings they had accrued at the time of their retirement. As a result, the record does not include probative evidence to support the Petitioner's claim that his parents paid for the 2006 land purchase using savings they derived from their lawful employment in the 1960s and 1970s. The actual source(s) of the funds included in the 1,000,000,000 VND property purchase cannot be determined.

We acknowledge the passage of time since the possible creation of certain relevant documents. The record indicates that the Petitioner's mother is deceased, and implies that his father, who was over ninety years old at the time of filing, does not recall specific details regarding his finances for a period that spans from the 1960s through 2006. But it remains the Petitioner's burden to document the complete path of the funds he invested back to a lawful source. *Borushevskyi v. USCIS*, 664 F. Supp. 3d at 129; *see also Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195; *see also Mo v. USCIS*, 2024 WL 804267, *6 (D.D.C. Feb. 27, 2024) (noting that USCIS did not err in requesting proof of household expenditures from 20 years ago).

Because the sales proceeds of the property purchased by the Petitioner's parents in 2006 later served as the sole source of the funds he used for his EB-5 investment, the source of funds used for that purchase is a relevant inquiry. While the record sufficiently documents his parents' purchase of land in 2006, it does not establish that the funds used for that purchase were derived from a lawful source and through lawful means. Absent such evidence, the Petitioner has not demonstrated his eligibility for the immigrant investor classification.

III. CONCLUSION

It is the Petitioner's burden to demonstrate his eligibility for the immigrant investor classification, which includes establishing that the funds he invested in the NCE were derived from a lawful source and through lawful means. *See* section 203(b)(5)(L)(i) of the Act. Here, the Petitioner has not met this burden. Accordingly, the appeal will be dismissed.

Because the Petitioner is ineligible for the immigrant investor visa classification for the reasons discussed, we need not address, and therefore reserve, discussion of USCIS' remaining grounds for denial. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.