U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40309739

Date: DEC. 16, 2025

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner sought to invest $500,000 towards redeveloping part of a former U.S. military facility and requests classification under the employment-based, fifth-preference (EB-5) immigrant visa category as an immigrant investor. *See* Immigration and Nationality Act (the Act) section 203(b)(5)(A), 8 U.S.C. § 1153(b)(5)(A) (2021).[1] Aliens may qualify for immigrant visas in this category if they invest requisite amounts of qualifying capital in new commercial enterprises (NCEs) that would benefit the U.S. economy by creating at least 10 full-time jobs per alien investor. *Id.*

Field Operations Directorate (FOD) denied the petition, and we dismissed the Petitioner's following appeal. *See In Re: 36734595* (AAO July 16, 2025). We affirmed FOD's conclusion that he neither documented the entire path of his investment funds nor their derivation from lawful sources. *Id.*

The matter returns to us on the Petitioner's motion to reconsider. He contends that we did not apply the proper evidentiary standard, misinterpreted evidence, and erred by inquiring into the lawful sources of an intermediary's funds.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we again conclude that he has insufficiently documented his investment funds' path and sources. We will therefore dismiss the motion.

I. LAW

A motion to reconsider must establish that our prior decision misapplied law or policy based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, our scope of review is limited to our most recent decision. *See* 8 C.F.R. § 103.5(a)(1)(i), (ii) (referring to "the prior decision" and "the latest decision"). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

[1] U.S. Citizenship and Immigration Services (USCIS) does not generally apply current section 203(b)(5) of the Act to petitions filed before March 15, 2022. 6 *USCIS Policy Manual* G.1(A), www.uscis.gov/policy-manual (distinguishing between petitions filed before and after Congress' enactment of the EB-5 Reform and Integrity Act of 2022).

II. ANALYSIS

For EB-5 purposes, "[a]ssets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital." 8 C.F.R. § 204.6(e) (defining the term "capital"). Thus, immigrant investors must demonstrate that they have invested, or are actively in the process of investing, "capital obtained through lawful means." 8 C.F.R. § 204.6(j)(3).

To show that they lawfully obtained their investment funds, petitioners must document their funds' paths and sources. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (stating that documentation of funds' sources "is relevant to the question of whether the funds have been lawfully obtained"); *Matter of Izummi*, 22 I&N Dec. 169, 195 (BIA 1998) (holding that a petitioner did not demonstrate the source of his investment funds where he did not "document[] the path of the funds"). "Taken together, these decisions require the investor to establish the source of the funds – which can be demonstrated by documenting the complete path of the funds." *Borushevskyi v. USCIS*, 664 F. Supp. 3d 117, 129 (D.D.C. 2023), *aff'd,* No. 23-5116, 2024 WL 2762146 (D.C. Cir. May 30, 2024).

The Petitioner's investment funds derive from his sale of real estate in Vietnam. He documented that he bought the land in November 2005 and built a house on it in October 2006. In December 2015, he gave the land and house to his spouse, who sold the property in October 2017 for 12,991,440,000 VND.[2] The following month, she transferred 12,557,641,500 VND – the equivalent then of $550,005 – to the Petitioner's Vietnamese bank account.

The Petitioner claims that, with the help of a Singapore farming equipment company, he swapped the Vietnamese currency in his Vietnamese bank account for U.S. dollars to avoid Vietnam's currency export restrictions. He submitted copies of a bank statement and receipt showing his withdrawal of the full amount of Vietnamese funds from his Vietnamese account on November 21, 2017. A letter/receipt indicates the Singapore company's receipt of all the funds on the same day. The receipt names the Petitioner as the funds' sender and N-V-T-, a man purportedly representing the Singapore company, as the funds' receiver. The receipt, however, is signed "on behalf receiver" by P-N-, the company's director. A bank statement for the Singapore company shows that, on November 24, 2017, the company transferred an amount equivalent to the Vietnamese funds purportedly swapped in U.S. currency to the NCE. A letter and a copy of a bank statement from the NCE confirm its receipt of the U.S. currency from the Singapore company on that date.

On appeal, because P-N- signed for the funds' receipt, we found insufficient evidence of N-V-T-'s receipt of the funds. We also found insufficient evidence – such as copies of bank statements or transfer notices – of the funds' disposition after the Petitioner purportedly gave them to N-V-T-. We further noted conflicting evidence regarding the relationship between N-V-T- and the Singapore company. In the Petitioner's response to FOD's request for additional evidence, he described N-V-T- as "[the company's] family friend in [Vietnam]" rather than as a company representative. Also, contrary to the information on the Singapore company's receipt, the Petitioner stated that, after providing his funds to N-V-T-, he received the receipt from another person, N-M-T-, whose relationship to the company is unexplained.

[2] VND refers to the official Vietnamese currency dongs.

A. The Evidentiary Standard

On motion, the Petitioner claims that we applied a higher evidentiary standard than authorized. The applicable preponderance-of-the-evidence standard requires him to show that he more likely than not obtained his investment funds through lawful means. *See Matter of Chawathe*, 25 I&N Dec. at 375-76.

The Petitioner claims that he provided "a complete and good-faith trace of the funds from [his] own bank account in Vietnam to the NCE, supported by dated withdrawal slips, [the Singapore company's] receipts and [its] bank statements." He contends: "By imposing a heightened and unattainable documentation standard, the AAO [Administrative Appeals Office] effectively shifted the burden beyond the preponderance of the evidence, contrary to law and controlling case authority." He also asserts: "By rejecting the Petitioner's consistent and corroborated evidence solely because it did not include a written contract or employment record for N-V-T-, the AAO elevated the evidentiary threshold beyond what the law requires."

The record, however, does not support the Petitioner's claims. As previously indicated, the Petitioner has not shown the entire claimed path of his investment funds. *See Borushevskyi*, 664 F. Supp. 3d at 129 (requiring an alien investor to document "the complete path of the funds"). The record lacks sufficient documentary evidence of: N-V-T-'s purported receipt of the Vietnamese funds from the Petitioner; N-V-T-'s purported transfer of the Vietnamese funds to the Singapore company; or the company's purported receipt or deposit of the Vietnamese funds. A petitioner must not only demonstrate that they obtained their investment funds through lawful means but also that they own the funds. *Matter of Soffici*, 22 I&N Dec. at 165 n.3; *Matter of Izummi*, 22 I&N Dec. at 195. [add sentence here what the gap is specifically]. Because of the gap in the funds' path, the Petitioner has not demonstrated, by a preponderance of the evidence, that he owned the funds that the NCE received. Thus, he has also not established, by a preponderance of the evidence, that the funds did not derive directly or indirectly from unlawful means. *See Nguyen v. USCIS*, No. 22-56068, 2023 WL 8251320, at *1 (9th Cir. Nov. 29, 2023) ("Inquiring into the path of funds not only ensures their legality but also confirms that they belong to the petitioner.")

Also, contrary to the Petitioner's claim, his evidence has not been "consistent and corroborated." He has not corroborated what N-V-T- purportedly did with the Petitioner's investment funds in Vietnamese currency or how they got to the Singapore company's account and were exchanged for U.S. dollars. Further, the record contains conflicting evidence regarding N-V-T-'s relationship to the Singapore company and who provided the Petitioner with the funds' receipt on the company's behalf. We found the Petitioner's evidence insufficient to explain these discrepancies, suggesting, for example, that he submit a copy of a written agreement between N-V-T- and the company to establish their relationship. But our suggestions do not constitute a heightened evidentiary standard. Precedent case law requires a petitioner to resolve inconsistencies of record with independent, objective evidence "pointing to where the truth, in fact, lies." *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

B. Informal Currency Exchange

The Petitioner also contends that we found insufficient evidence of his investment funds' sources "solely because [his evidence] was generated through an informal currency exchange." He argues that

we disregarded "established precedent allowing credible alternative evidence when traditional banking records are unavailable due to local currency controls."

Contrary to the Petitioner's contention, we did not find his evidence insufficient "solely" because it stems from an informal currency swap. As previously indicated, we found his evidence insufficient primarily because he did not document his investment funds' complete path from him to the Singapore company. The record lacks sufficient documentary evidence of: N-V-T-'s purported receipt of the Vietnamese funds from the Petitioner; N-V-T-'s purported transfer of those funds to the Singapore company; or the company's purported receipt or deposit of the funds from N-V-T-. Also, he did not resolve the inconsistencies regarding N-V-T-'s relationship to the Singapore company or the identity of the person who gave him the receipt on the company's behalf, which is required to establish the full path of the funds and their lawful source.

Further, the Petitioner does not identify any "established precedent" regarding evidence of currency swaps, nor are we aware of any such precedent. We note that a U.S. district court affirmed our denial of a similar immigrant investor petition involving an informal Vietnamese currency swap. *See Truong v. USCIS*, No. CV 21-316 (RC), 2023 WL 4234658 (D.D.C. June 28, 2023). There, like here, the alien investor provided copies of a bank statement showing her withdrawal of her purported EB-5 investment funds in Vietnamese currency from her Vietnamese account and a receipt indicating that a representative of a purported money exchanger company received the funds' from her. *Id.*, 2023 WL 4234658 at *4. The court found insufficient documentation to confirm the company's receipt of the funds in its bank accounts or the representative's authorization to receive the funds on the company's behalf. *Id.* Thus, the court agreed with us that the petitioner "did not provide the necessary documentation tracing the path of her funds." *Id.* at *8.

C. U.S. District Court Decisions

In support of his argument that we improperly required source-of-funds evidence from the intermediary Singapore company, the Petitioner cites U.S. district court decisions. *See Le v. USCIS*, No. 21-CV-501 (JMC), 2025 WL 1743942 (D.D.C. June 24, 2025); *Zhou v. Noem*, No. CV 19-2650 (TJK), 2025 WL 416152 (D.D.C. Feb. 6, 2025); *Battineni v. Mayorkas*, 752 F. Supp. 3d 195, 199 (D.D.C. 2024). The cited decisions limited USCIS' source-of-funds inquiries in those matters to only the alien investors' "immediate" funding sources. For example, in *Battineni*, alien investors did not demonstrate sources of funds in an individual lender's bank account from where the aliens received portions of their EB-5 investments. *Battineni*, 752 F. Supp. 3d at 208-09. The court found that the investors need not document sources "beyond their initial acquisition" of funds and that 8 C.F.R. § 204.6(j)(3) does not require "evidence of where" other "person[s] or entit[ies] obtained their funds." *Id.* at 214.

But, except in those cases themselves, we need not follow U.S. district court decisions. *See Trump v. CASA, Inc.*, 145 S.Ct. 2540, 2560 n.17 (2025) (stating that "district court opinions lack precedential force even vis-à-vis other judges in the same judicial district"). Moreover, other U.S. district court decisions have upheld USCIS' method of determining lawful funding sources, including sources of intermediaries' funds. *See Truong*, 2023 WL 4234658 at *5; *Borushevskyi*, 664 F. Supp. 3d at 128; *Sadeghzadeh v. USCIS*, 322 F. Supp. 3d 12, 17-18 (D.D.C. 2018). Thus, the Petitioner's U.S. district court citations are neither precedential nor persuasive.

D. Interpretation of Evidence

The Petitioner further contends that we misinterpreted evidence. He argues that the receipt signed by P-N- "neither states nor implies" that P-N- personally received the Petitioner's Vietnamese funds. Rather, he says the evidence shows that "P-N- simply signed the receipt in connection with the transaction, which is not uncommon in Vietnamese informal currency exchanges." The Petitioner also contends that the receipt's omission of N-V-T-'s signature "does not contradict the Petitioner's consistent explanation that N-V-T- received funds on [the company's] behalf." He states that "any perceived ambiguity in the receipt's signature does not undermine the lawful origin or path of those funds."

Contrary to the Petitioner's contention, however, our appellate decision states: "We agree that the receipt does not indicate that P-N- [personally] received the Petitioner's funds in Vietnam." *See In Re: 36734595*, *supra*, at *3. We also agree that the Petitioner has consistently identified N-V-T- as the man to whom he gave his Vietnamese funds. But "[s]imply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings." *Matter of Soffici*, 22 I&N Dec. at 165. Given the documentary break in the path of the Petitioner's funds after he withdrew them and the inconsistencies regarding N-V-T- and the person who provided the receipt on the company's behalf, the record requires additional corroborating evidence. *See Matter of Ho*, 19 I&N Dec. at 591 (requiring a petitioner to resolve inconsistencies of record with independent, objective evidence pointing to where the truth lies).

Demonstrating lawful sources of investment funds is an important EB-5 requirement. When establishing this immigrant visa category, Congress indicated that it would not tolerate investment of unlawful funds. If the U.S. government learned that an alien invested money obtained through unlawful means, Congress intended that the "processing of an individual visa not continue." S. Rep. No. 101-55, 101st Cong., 1st Sess. 21 (1989).

For the foregoing reasons, the Petitioner has not sufficiently documented the path and lawful sources of his investment funds. The motion does not establish our appellate decision's misapplication of law or policy. We will therefore dismiss the filing.

E. Other Issues

Our determination that the Petitioner has not demonstrated the complete path and lawful sources of his investment funds resolves this motion. Thus, we need not reach and hereby continue to reserve review of FOD's findings regarding the lawful source of the U.S. currency that the Singapore company transferred to the NCE and other alleged deficiencies and omissions of record. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

ORDER: The motion to reconsider is dismissed.

NOTICE: Aliens who are unlawfully present, or who are otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the

Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for future U.S. visas or other immigration benefits.