U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33921833

Date: FEB. 24, 2025

Appeal of Immigrant Investor Program Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

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) (2015).[1] This fifth preference (EB-5) classification makes immigrant visas available to foreign nationals who invest 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. Foreign nationals may invest in a project associated with a U.S. Citizenship and Immigration Services (USCIS) designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, 106 Stat. 1828 (1992), section 610, as amended by section 575 of Pub. L. No. 114-113 (2015).

The Chief of the Immigrant Investor Program Office denied the petition, concluding that the capital, which has been invested by the Petitioner, is capital that has been obtained through lawful means. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and additional evidence and maintains that he has established eligibility for the EB-5 classification.

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.

The Petitioner asserted that he derived his investment funds through (1) dividends he received from [redacted], an Iranian company that manufactures polymeric parts for the automative industry, and (2) the sale proceeds of a real property in [redacted] Iran. The Petitioner also claimed that he used the services of hawala money transferors to transfer his funds from Iranian rials to United Arab Emirates (UAE) dirhams and to transfer these funds from Iran to Dubai,

[1] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner had filed his petition in 2016, the relevant law then in existence governs this appellate adjudication.

UAE. The Chief found that the Petitioner submitted insufficient documentation to show that the third-party brokers were legitimate money service businesses or obtained their funds lawfully. The Chief also found that the record did not contain sufficient documentary evidence to illustrate the source of funds used by the Petitioner to purchase the real property.

We adopt and affirm the Chief's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

On appeal, the Petitioner presents additional evidence and asserts that the evidence presented substantiates the lawfulness of his investment funds. However, the additional evidence submitted on appeal does not overcome the deficiencies noted in the Chief's decision. For example, the Petitioner offers tax evaluation slips and purchase contracts for [redacted] While these documents may support the claimed lawful business activities of [redacted] in Iran, they do not establish the claimed lawful sources of funds used by the hawala brokers to exchange the Petitioner's funds from Iranian rials to UAE dirhams and then to U.S. dollars. *See* 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. 206, 210 (Assoc. Comm'r 1998). The Petitioner also presents duplicate copies of certain transaction receipts and bank statements previously submitted to the Chief. These documents do not establish the complete path of funds from Iran to UAE and then to the United States for the reasons stated in the Chief's decision. *See Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. 169, 195 (Assoc. Comm'r 1998).

The Petitioner contends that he is from Iran, a country under stringent international sanctions, and considering the unique circumstances imposed by sanctions, the presumption of legitimacy should apply to transactions conducted through money exchangers unless there is concrete evidence indicating otherwise. However, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013); *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). In addition, the Petitioner does not address or challenge the Chief's finding regarding his failure to establish the claimed lawful source of funds used to purchase the real property in 2005. Therefore, we deem the issue waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) and holding that any ground of ineligibility that is not raised on appeal is waived).

The Petitioner refers to the deference policy outlined in the USCIS Policy Manual and contends that because his previous petition [redacted] which used identical funds and documentation, was approved, his current petition should also be approved based on the deference policy. He argues that USCIS should maintain consistency in its evaluation and recognize the continuity of the source of funds as previously approved. However, we are not required to approve petitions where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988). Furthermore, the Petitioner acknowledges that the approval of the visa petition was later revoked.

Lastly, the Petitioner asserts that the Chief's decision lacks essential information, such as the name, title, and office information of the USCIS official who made the decision. He claims that this absence of identification raises significant due process concerns, undermines the fairness, transparency, and

accountability of the decision-making process, contravenes established USCIS policies and regulations, and violates the Administrative Procedure Act. However, in support of this appeal, the Petitioner omits to provide page 2 of the Chief's decision, which contains the name, title, office, and signature of the USCIS official who made the decision. Moreover, page 1 of the Chief's decision also provides the office information of the USCIS official who made the decision.

For the reasons discussed in the Chief's decision and in our appellate decision, the Petitioner has not established by a preponderance of the evidence his eligibility for the EB-5 classification. Specifically, he has not demonstrated the lawful source of his purported EB-5 investment. *See* 8 C.F.R. §§ 204.6(j)(3), (e); *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

ORDER: The appeal is dismissed.