U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-C-

DATE: FEB. 26, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a provider of dry cleaning and tailoring services, seeks to employ the Beneficiary as an alteration tailor. It requests her classification as a skilled worker under the third-preference, immigrant category. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). This employment-based, "EB-3" category allows a U.S. business to sponsor a foreign national with at least two years of training or experience for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not demonstrate its required ability to pay the proffered wage. On appeal, we affirmed the Director's decision. *See Matter of M-C-*, ID #78179 (AAO Mar. 30, 2017). We also found that the record did not establish the Beneficiary's possession of the minimum experience required for the offered position or the requested classification. *Id.*

The matter is now before us on the Petitioner's motions to reopen and reconsider. The Petitioner submits additional evidence and asserts both its ability to pay the proffered wage and the Beneficiary's possession of the requisite experience.

During the course of adjudication, we mailed a notice of intent to deny (NOID) to the Petitioner, with a copy to counsel. The NOID informed the Petitioner of derogatory information and discrepancies of record regarding the Beneficiary's claimed, qualifying experience. The NOID, sent January 11, 2018, warned the Petitioner that, absent a response within 33 days of the notice's mailing, we may deny the motions. *See* 8 C.F.R. §§ 103.2(b)(8)(iv), 103.8(b) (allowing up to 30 days to respond to a NOID and adding three days if the notice was served by regular mail). To date, more than 40 days after we mailed the NOID, we have not received a response.

If a petitioner does not timely respond to a NOID, U.S. Citizenship and Immigration Services (USCIS) may summarily deny the petition. 8 C.F.R. § 103.2(b)(13)(i). USCIS may also deny a petition if a petitioner withholds requested evidence, preventing a material line of inquiry. 8 C.F.R. § 103.2(b)(14).

The Petitioner did not timely respond to the NOID. Under 8 C.F.R. § 103.2(b)(13)(i), we will therefore deny the motions as abandoned.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of M-C-*, ID# 667757 (AAO Feb. 26, 2018)