U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28424059

Date: JAN. 25, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, an entrepreneur and skin care teacher and researcher in the field of cosmetology, seeks classification as a member of the professions holding an advanced degree or of exceptional ability, Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this employment based second preference (EB-2) classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so. *See Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish eligibility for the benefit sought due to a deficient signature. The matter is now before us on appeal. 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.

The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS is one that is either handwritten or, for benefit request filed electronically as permitted by the instructions to the form, in electronic format."[1]

The *USCIS Policy Manual* provides that in "general, any person requesting an immigration benefit must sign their own immigration benefit request, and any other associated documents, before filing it with USCIS." *See generally* 1 *USCIS Policy Manual*, *supra*, at C.1 (citing to 8 C.F.R. § 103.2(a)(2)). USCIS policy explains that a valid signature is "any handwritten mark or sign made by a person" and such signature must be made by the person who is the affected party with standing to file the benefit request to signify that "[t]he person knows of the content of the request and any supporting documents;

[1] Because the Form I-140 was not electronically filed, none of the provisions governing electronic filings apply.

[t]he person has reviewed and approves of any information contained in such request and any supporting documents; and [t]he person certifies under penalty of perjury that the request and any other supporting documents are true and correct." *See generally* 1 *USCIS Policy Manual* B.2(B), https://www.uscis.gov/policymanual. A person's signature on an immigration form establishes a strong presumption that the signer knows and has assented to its contents, absent evidence of fraud or other wrongful acts by another person. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018) (citing *Thompson v. Lynch*, 788 F.3d 638, 647 (6th Cir. 2015); *Bingham v. Holder*, 637 F.3d 1040, 1045 (9th Cir. 2011). The probative force of a declaration subscribed under penalty of perjury derives from the signature of the declarant.

On appeal, the Petitioner asserts that she signed her immigration documents utilizing a technology application that creates an electronic signature from a picture of her original signature. The Petitioner mistakenly equates electronic signatures with electronically reproduced original signatures. Contrary to the Petitioner's assertions, USCIS does not accept electronic or digitally produced signatures on forms submitted for immigration benefits. Although a signature may be considered valid if it is "photocopied, scanned, faxed, or similarly reproduced....the copy must be of an original document containing an original handwritten signature, unless otherwise specified." *See generally* 1 *USCIS Policy Manual*, *supra*, at B. Ultimately, even if a filing party presents a photocopy of a Form I-140 to USCIS, that photocopied form must contain a filing party's original signature that is consistent with how the person normally signs their name because "[a]n applicant or petitioner must sign his or her benefit request." 8 C.F.R. § 103.2(a)(2).

The *USCIS Policy Manual* further explains that the agency interprets the regulatory term "valid signature" to mean a signature that "is consistent with how the person signing normally signs his or her name." *See generally* 1 *USCIS Policy Manual*, *supra*, at B (explaining that the appearance of the signature on USCIS forms must be preponderantly consistent with that person's normal signature). Although the "regulations do not require that the person signing submit an 'original' or 'wet ink' signature on a petition, application, or other request to USCIS," USCIS does "not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device." *See generally* 1 *USCIS Policy Manual*, *supra*, *at B*. *See also generally* 1 *USCIS Policy Manual*, *supra*, at A (stating that "[e]xcept as otherwise specifically authorized, a benefit requestor must personally sign his or her own request before filing it with USCIS"). USCIS has implemented these regulations and attendant policies "to maintain the integrity of the immigration benefit system and validate the identity of benefit requestors." *See generally* 1 *USCIS Policy Manual*, *supra*, at A. In the same way that one person signing a declaration "for" another person carries no evidentiary force, neither will an image of a signature duplicated using some electronic means or method. Without the signatory's actual and personal signature as the declarant, the declaration under the penalty of perjury on the Form I-140 has no evidentiary force. *See in re Rivera*, 342 B.R. 435, 458-459 (D. N.J. 2006).

The Petitioner also asserts the Director erred in denying the Petition based on their deficient signature and contends that the Director was required to reject the petition on the basis of their noncompliant signature. This is incorrect. The Director may reject, deny, or dismiss a benefit request that does not contain a valid or a proper signature. And the Director is not required to provide an opportunity to correct or cure a deficient signature. 8 C.F.R. § 103.2(a)(7)(ii)(A); *see generally* 1 *USCIS Policy Manual*, *supra*, at A.

In visa petition proceedings it is a petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has not met that burden.

ORDER: The appeal is dismissed.