U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35665222

Date: JAN. 31, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a global operations controller, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner is eligible for a national interest waiver as a matter of discretion. 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 withdraw the Director's decision and remand the matter for entry of a new decision.

At this time, we are unable to address the merits of this case because the record is incomplete. The record reflects that the Director issued a request for evidence (RFE) on April 25, 2022. While the Director acknowledged in the underlying decision that the Petitioner submitted a response to the RFE which includes an updated detailed description of her proposed endeavor, the Petitioner's original response has not been incorporated into the record of proceeding. Thus, we cannot determine whether the Director properly considered all the relevant evidence in the record, nor can we base our own decision in this case on an incomplete record.

The Director bears the responsibility of ensuring that the record is complete and contains all evidence that has been submitted by a petitioner or considered by U.S. Citizenship and Immigration Services in reaching its decision. *See* 8 C.F.R. § 103.2(b)(l); cf. *Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976). Accordingly, we will withdraw the Director's decision and remand this matter for the inclusion of the missing record materials and further consideration.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.